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# Transfer of Professionals From Other Jurisdictions To Ontario

Prepared by  
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for  
The Professional Organizations Committee

This working paper was commissioned by  
The Professional Organizations Committee,  
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TRANSFER OF PROFESSIONALS FROM OTHER JURISDICTIONS  
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for

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## I. INTRODUCTION

It is the generally accepted rationale of all systems of professional licensing that the interference in the free-market economy which such systems represent is justified by the need to protect the public from incompetent or dishonest practitioners.<sup>1</sup> It is said that this need arises because of the inability of most consumers to make informed judgements about the quality of services provided (since the factors involved in making such a judgement about e.g. a lawyer or an architect are numerous and complex) and because of the importance of the services provided, and the serious results to the consumer of incompetent service in these areas.<sup>2</sup> In the case of the traditional professions, the State has not only introduced mandatory licensing, but has also empowered self-governing groups within the professions to draft rules and policies setting out some of the admission requirements and conditions of continuing membership in a profession and to enforce these standards.

Geographic mobility among professionals has become more and more common since World War II. Increased mobility probably reflects not only shifting goals in the professional population, but the desire of employers to utilize special professional skills in areas in which this is technologically efficient.

Faced with an increasing demand for mobility among professionals, the Ontario government and professional licensing bodies have had to develop rules governing the admission of professionals already licensed in other jurisdictions -- jurisdictions which may have different requirements for licensing -- to practise in Ontario. It is my task to evaluate the appropriateness of these rules in law, architecture, engineering and accounting.



To do this, I will first consider what the general goals of a system governing the transfer of professionals from other jurisdictions should be. Based on this analysis, I will advance some general propositions about desirable elements in any system of professional transfer regulations. After examining the transfer regulations which now exist in law, architecture, engineering, and accounting, and comparing them to those in some other jurisdictions, I offer a critique of existing Ontario regulations.

## II. CONSIDERATIONS IN EVALUATING PROFESSIONAL TRANSFER REGULATIONS

The primary goal of any professional licensing system which aims to protect the consumer public must be the assurance of a minimum standard of competence and honesty in practitioners. This is usually accomplished through controls at the point of entry into the profession -- admission requirements requiring a certain standard of training and good moral character -- and standards of conduct and competence which can be enforced through disciplinary proceedings carried out by the profession itself.

In Ontario competence at admission is usually insured by requiring of candidates: (a) certain post-secondary general education; (b) professional training, and sometimes a professional degree, from a university; (c) a period of work experience either concurrent with or subsequent to professional training; (d) successful completion of examinations set by the licensing body.

Persons who are licensed as professionals in other Canadian provinces or other countries who wish to reside in Ontario and continue to practice their profession will have had to meet requirements to be licensed in their home jurisdiction, but these requirements are probably not identical to those in force in Ontario.

The major concern in drafting legislation to deal with applications



for licensing by these transfer candidates should be to insure that they meet the same standards of competence and honesty as internally trained candidates. Other subsidiary considerations arise in framing transfer rules -- considerations as to the public's interest in maximum mobility among qualified professionals, a professional group's interest in restricting access to that profession, possible savings to the State and the public through admission of professionals trained outside the province to practice, and the protection of the rights of such professionals who wish to practise in Ontario.

#### A. Level of Competence

In order to achieve adequate protection of the consumer public, any transfer regulations must insure that transfer candidates meet the same levels of competence that locally trained candidates must meet.

One way of achieving this goal would be to make no special allowances for those already trained and licensed in other jurisdictions, and to require them to meet exactly the same requirements which domestic applicants have to meet in order to show competence. For example, if an architectural candidate was required to have an architecture degree from an approved Ontario university and to complete five years of work experience in Ontario, then a transfer applicant who had an architecture degree and five years of work experience in another country or province would still be required to complete another degree and obtain five years of work experience in Ontario.

This approach would certainly insure adequate competence in transfer applicants, but it would also entail severe dysfunctional effects and set up much more stringent requirements than are necessary in many cases to insure competence in applicants. Transfer applicants have

already invested time and money in qualifying for a license in their own jurisdiction, are earning substantial incomes and in many cases have families to support. Most such professionals would be discouraged from making a move to Ontario if this meant a return to student status and income for several years.

It is not in the public interest to discourage the mobility of competent professionals, since a greater supply of professionals in the province should mean more competition. This competition could lead professionals to offer lower cost services, or to change their practice to meet previously unserved client needs or to move to serve underserved geographic areas of the province. Professionals from other provinces or countries who are admitted for permanent residence in Canada also have a legitimate interest in being able to pursue their profession and earn a livelihood without facing unduly restrictive barriers to practice.

These considerations would have to be put aside if literal compliance with the requirements imposed on domestic candidates was necessary to insure competence in transfer candidates, but in most cases this is not necessary. Many other jurisdictions require of licensed professionals training which is highly similar in scope and standard to that required in Ontario. The task which faces Ontario's professional licensing systems, is development of sophisticated evaluative techniques to determine the equivalence of extra-territorial academic and work experience programmes to those required in Ontario. If sufficiently rigorous evaluative tools are not employed, then there is a dual danger: either incompetent applicants will be admitted, or qualified applicants will be compelled to complete needless and costly training, and in some cases thereby be deterred from entry.

When a transfer candidate's deficiencies are identified, then training programmes should be available to correct partial deficiencies at the

lowest cost to the State and the applicant. The candidate should not be forced into a lock-step programme in which he must repeat work already satisfactorily completed as well as remedying the gaps in his training.

#### B. Protection of Ontario Professionals

Should professional transfer regulations, in addition to insuring the competence of transfer applicants, contain some mechanism which would allow the professional regulatory body to regulate the numbers of transferring professionals to prevent unemployment or an increase in competition among professionals in the province? Some might argue that the province should protect the right of its resident professionals to maintain their present standard of living. As jobs become more scarce in some professions, it might be said that the province should give preference to its residents in issuing professional licenses.

It is submitted that several factors make this type of protectionism an inappropriate objective for a professional licensing system.

1) A transfer policy which discriminated simply because the applicant had received his training, and had previously been resident, in another province or country would conflict with Ontario public policy. Encouragement has been given in the past to professional bodies to attempt a rationalization of licensing requirements to encourage greater mobility of professionals within Canada, and Ontario is in general committed to policies which will encourage, not discourage, national unity. The province's public policy as stated in its Human Rights Code is opposed to discrimination

in employment or access to employment solely on the basis of nationality or place of origin.<sup>3</sup> It would be a violation of that policy to restrict access to a professional licence of otherwise qualified professionals legally admitted to Canada for residence solely because they were not Canadian citizens or had not trained in Canada.

It should also be noted that some transfer applicants will in fact be individuals who were Ontario residents who have chosen to take all or part of their professional training outside the province or country and are now returning to the province.

2) There could be constitutional difficulties in justifying provisions in Ontario professional regulatory legislation which were aimed solely at restricting the flow of non-resident manpower into the province.

Under The British North American Act, the Dominion is given exclusive authority to legislate with respect to aliens and naturalization. The Act gives both the provinces and the Dominion a right to legislate with respect to immigration, but provincial legislation is valid only insofar as it does not conflict with Dominion legislation in this area. The provinces are given the right to legislate with respect to "property and civil rights in the province", and it is under this head that professional regulatory legislation falls.

The Dominion has passed what could be regarded as comprehensive legislation with respect to aliens' rights to enter, live permanently and work in Canada in The Immigration Act.<sup>4</sup> That Act permits aliens who have been admitted for permanent residence to work without restriction in Canada, and provincial legislation which imposes restrictions on their right to work and earn a livelihood solely on the basis of alienage is of questionable validity. The question of the provinces' right to pass such legislation, however, has not been clearly settled through litigation,<sup>5</sup> and

in fact a recent Supreme Court of Canada decision affirmed the validity of provincial legislation restricting the right of non-residents of the province to purchase land as legislation which dealt with "property and civil rights in the province".<sup>6</sup>

3) The new Federal Immigration Act aims to control immigration on the basis of manpower needs. Independent applicants for permanent residence (i.e., applicants without close relatives in Canada) are required to produce a job offer, and to attain a certain number of points on a rating scale which gives very heavy weight to occupational demand -- i.e., the manpower need for individuals of the applicant's occupation, in the area of the country in which the applicant intends to settle.<sup>7</sup> It is difficult if not impossible for an independent applicant to be allowed to enter for permanent residence if he does not have a job offer and is not in an occupation in which more workers are needed.

It seems more appropriate and perhaps more effective for the potential problem of a "glut" on the professional market to be handled through the mechanism of national immigration policy than provincial licensing policy. If an over-supply of workers in a profession does exist then immigrant professionals will be prevented from entering the country rather than being refused a licence when they have already resettled in Canada.

4) Two important committees which considered Ontario legislation on the self-governing professions in recent years have taken the position that the only justifiable purpose for the restrictions on access to the professions imposed by such legislation is the protection of the consumer public, and that protection of the economic interests of professionals themselves is not an appropriate objective.<sup>8</sup> The Ontario government has indicated its agreement with these views by passing legislation in line with some of the recommendations of these committees. Although the Ontario government has passed tax legislation which gives protection to some provincial



industries from foreign competition to encourage their development, there do not seem to be any signs that any Ontario professional groups require this sort of protection. If such protection is needed in the future, it should be achieved by changes in the Act initiated by the government and discussed in the Legislature rather than by action by a self-governing profession itself under the regulation-making powers given it.

#### C. Uniformity of Treatment

Although professional transfer regulations should not discriminate against qualified transfer applicants solely because they were resident in and trained in another province or country, transfer regulations should not discriminate against domestic applicants by making it easier to obtain a licence by training outside rather than within Ontario. A carefully constructed method of assessing equivalence of training outside the province would prevent applicants who had taken less stringent courses from qualifying without sufficient retraining in Ontario. It is possible, however, that a training programme in another jurisdiction might be found equivalent in scope and standard to that required of domestic applicants in Ontario, but take a shorter time to complete than the Ontario programme. In the interests of fairness to Ontario applicants, no transfer applicant should be admitted who has had to devote significantly less time to professional training and work experience than would be required in Ontario.

#### D. Consumer Access

Professional transfer regulations which allow a free flow of professionals into the province may improve consumer access to professional services in a number of ways, some of which have already been referred to.<sup>9</sup> Increased competition among a larger number of professionals may lower the

cost of services or lead to professional servicing of certain client groups which it was previously found uneconomic to service. Professionals from other countries may be able to provide service to immigrant clients in their own language. Transfer applicants who have met most admission requirements but who must still meet some additional requirements before receiving unrestricted licenses to practise may be granted restricted licences allowing practise in underserved areas or public institutions, as has been done in the medical profession.

#### E. Cost of Training

The Ontario government assumes a significant portion of the cost of professional training through grants made to colleges, universities, and some internal training programmes conducted by professional groups. The balance of this cost is, of course, paid by the individual student. If the bulk of a professional's training is completed in another jurisdiction and that training is satisfactory, it could be economically advantageous -- both to the State and the applicant -- to grant him a license without requiring him to repeat that training in Ontario institutions. To weigh the costs of different transfer programmes, one should compare the cost of that repetition of training to the cost of establishing and maintaining an efficient institutional mechanism to evaluate the qualifications of transfer applicants and to offer them remedial training if necessary.

Although it may be economically beneficial for Ontario to take advantage of the fact that transferring professionals have been trained at another government's expense, a question can be raised as to whether it is right to do so in the case of immigrating professionals from developing nations. A drain of qualified manpower from these nations will retard their development. In many cases Canada may actually be sending funds or personnel to a nation to promote development and at the same time accepting as immigrants qualified persons who are needed by their native country but wish to settle in Canada to improve their own standard of living.

This problem does pose an important moral question. The question, however, is one which is more appropriately handled by the Federal government since it is responsible for the conduct of the relations which Canada has with other countries, and is better able to prevent the departure of qualified manpower from a country through manipulation of Canadian immigration policy than the provincial government would be through tinkering with professional transfer regulations. In some cases it might be consistent with Canada's external affairs and foreign development policy to restrict immigration from a country to stem an outflow of skilled or professional labour; it would, however, be an unprecedented step and a presumptuous move to make if not in response to the request of a foreign government.

#### F. Individual Rights

In Ontario's legislation, procedural protections are given a professional who may be deprived of his license because of charges of negligence or professional misconduct.<sup>10</sup>

These procedural protections are offered because it is recognized that a licence represents an important economic interest, the ability to earn a livelihood, and fairness requires that an individual be given a chance to defend this interest before it is damaged. Thus, a professional threatened with the loss of his license because of alleged misconduct is typically given a notice of the proposed action, written reasons for the action, and opportunity of appearing at a hearing with counsel and presenting his defense before any final decision is made, a right of appeal to a committee of the professional regulatory body from such decision, and a further appeal to a court.

Sometimes it is said that licensed professionals merit procedural



protections because they have already acquired rights to practise, but prospective candidates for a license who have never been licensed before do not merit such protections, since a refusal of a license does not deprive them of any right they previously enjoyed. This distinction seems overly legalistic, and ignores the fact that prospective candidates have made an investment of time and money in training for the profession which represents a substantial economic interest, albeit not always as large as that of an established practitioner. More and more often professional regulatory legislation is recognizing this interest as worthy of protection also, and granting an applicant for a license procedural protections similar to that of the licensed professional in the event of a refusal of a licence.

A transfer applicant has an interest weightier than that of the domestic applicant, since he has often invested years of post-licensure work in his home jurisdiction in developing his professional abilities. A transfer applicant should be given hearing and appeal rights if he is refused a licence or if he is given an evaluation of his academic qualifications or work experience which he disputes -- even if a first-time domestic applicant is not given these rights.

### III. SOME PROPOSITIONS AS TO THE DEVELOPMENT OF PROFESSIONAL TRANSFER REGULATIONS

In the light of the considerations reviewed above with respect to professional transfer regulations, the following propositions are offered with respect to development of such regulations governing transfer into Ontario of professionals licensed to practise in another province or country.

1. Inter-provincial mobility. Full mobility of licensed professionals from one province to another is certainly desirable from the public's and the individual professional's point of view. National coordinating associations of licensing bodies should be established, where they do not

exist, to promote the standardization of admission requirements which is necessary to achieve a standardized inter-provincial transfer policy. Conditions of practice of the professions under consideration do not vary so widely from province to province (except perhaps in the legal profession between Quebec and the other common law provinces) that wide freedom of transfer should not be possible.

2. Post-licensing experience requirements of inter-provincial transferees. It is in some professions the practice to require that applicants already licensed in other provinces must have a number of years of post-licensing experience in the home province before an unconditional transfer into Ontario is allowed. Since such candidates will also have completed pre-licensing work experience, this requirement has the effect of requiring them to complete a much longer period of work experience than is required of domestic applicants. It seems legitimate to require that a transfer applicant from another province have as much work experience as a domestic applicant, but more should not be required.

3. National association to evaluate foreign credentials. The major problem which most professional licensing bodies have in evaluating foreign credentials is a paucity of information about foreign licensing programmes and degrees.<sup>11</sup> Usually all an evaluation committee has is an applicant's transcript, a school calendar, whatever happenstance knowledge the committee members or academics whom they consult may have about the foreign programme, and the records of applicants from that jurisdiction who have already transferred to practise in Ontario.

Collection of information about foreign licensing programmes is expensive and time-consuming. If it is done by a national association of licensing bodies within a particular profession then cost can be reduced and efficiency increased. The national association can use this information

to establish profiles of different programmes, and can recommend exemptions from entrance requirements for university courses or pre-licensing exams which could be adopted by the provincial body. In this way, a national policy with respect to transfers could be attained.

The national association would collect information at three levels: (a) information on the admission requirements of a foreign licensing body. This would include detailed information on any examination administered by the body itself as a condition of licensing; (b) information on any academic training programmes required for licensing. This would include information on approved university or college programmes and programmes offered by the licensing body itself. Details about course curriculum, required assignments or exams, standards of performance required, course length, course materials, library facilities, staff qualifications, and student/staff ratios would be obtained; (c) information about an individual applicant's academic credentials, which may be in excess of that required to obtain a licence in his home jurisdiction.

Provisions should be made for regular updates of information obtained about licensing requirements and academic training programmes.

The national association could also collect information from each provincial body about the performance of students in that province who had previously been licensed in a particular jurisdiction, immigrated to Canada and had taken the exams of a provincial licensing body. This is one functional check which is available to test the assessments which might be made of information received from foreign licensing bodies on their programmes. For example, if information supplied by the governing body of architects in Country A suggests that the academic qualifications required of architects there are approximately the same as those in Ontario, but applicants licensed in Country A had in the past performed poorly in certain university architecture courses or parts of the Registration Board Course,

then this would indicate areas in which exemptions from Ontario requirements should not be given despite apparent equivalence.

When a foreign licensing programme is being evaluated for the first time, extensive information should be obtained, not only about the licensing body and its standards but about the academic programmes which it has approved for licensing purposes in that jurisdiction. Thereafter, it may be sufficient simply to maintain contact with and review changes made by the professional licensing body in its standards. Although correspondence, calendars, and required tests are essential to an evaluation, it would probably be helpful for some meetings between representatives of the national evaluative association and the foreign professional licensing body to take place. This practice is followed with some jurisdictions by the chartered accountants' International Qualifications Assessment Board.<sup>12</sup> It might also be helpful to send individuals to the foreign jurisdiction (or retain them there) to gather information first hand which cannot easily be gained through correspondence. This practice is followed by the Australian Institute of Engineers.<sup>13</sup>

4. Analysis of domestic academic requirements. In order to assess the similarity of foreign academic requirements to Ontario's, it is necessary not only to obtain information about foreign programmes, but also to analyze the components of any required academic programmes or comprehensive exams so that the comparison may be done in appropriate units. This will allow for partial exemptions from specific parts of a comprehensive examination, or specific courses within a required degree programme, or even parts of one course where such exemptions are merited, and help isolate the areas where additional work is required without necessitating needless repetition of courses or exam papers.

If, for example, an entire university degree programme in law in Ontario is compared to one in England, there will be some courses in

those programmes which are very similar and others in which the content is very different. If comparison is made at the level of the entire programme there is no equivalence, but a more detailed comparison shows areas of equivalence which should be taken into account in transfer regulations.

Any part of a course in an approved curriculum in Ontario which has significant Canadian content should be identified, as this material can form the basis for a remedial programme for transfer applicants who are lacking in such knowledge but otherwise qualified.

If any courses in a required degree programme for an Ontario profession are particularly practice-oriented, these should be identified. Although in general it is quite difficult to equate work experience with academic work and substitute one for the other, in some instances in which a course is practice-oriented it may be possible to do so. For example, the Society of Management Accountants of Ontario allows exemptions from its data-processing course on the basis of prior work experience.<sup>14</sup>

5. Exemptions from required exams or courses for transfer applicants with equivalent qualifications. When adequate information has been received about a licensing programme in another country or province and analysis done of the domestic academic requirements for licensing of a profession, then the national association of licensing bodies can make recommendations as to full or partial exemptions from courses or exams.

a) It is suggested that exemptions for required courses as well as licensing body exams be approved by the licensing body rather than any university or college in Ontario recognized by the licensing body in its professional training programme.

Locating these decisions in the licensing body rather than in several educational institutions will insure more consistent treatment of transfer applicants. Some professional licensing bodies, such as



Ontario's Law Society, have chosen to deal with the assessment of equivalencies in foreign transfer applicants' training by requiring such applicants to have a Canadian law degree and in effect delegating the evaluation of the candidate's credentials to university faculties, which grant advanced standing towards a degree.<sup>15</sup> (It would be possible for L.S.U.C. to evaluate the candidate's credentials and require him to take courses in which he was deficient in institutions approved by the licensing body.) This can lead (as it has in the case of transfer applicants to the Law Society) to policies about advanced standing which differ widely from university to university.<sup>16</sup> It is also possible that a transfer applicant required to complete an Ontario or Canadian degree programme (instead of a specific number of courses) may have to enroll longer at the university than is necessary to correct his academic deficiencies in order to fulfill one or two year residence requirements necessary for a degree. Partial as well as full exemptions should be allowed from required professional academic training and required exams. These partial exemptions should be granted on a course-by-course basis rather than using larger units -- the entire degree or training programme, or "years" or "levels" within the programme -- as the cut-off points for measuring equivalence. Likewise, if a comprehensive examination required by a licensing body is divided up into subject papers, exemptions can be given on the basis of equivalence of prior exams written to each paper.

b) There may be some situations in which a transfer applicant has good academic credentials in a subject area, but will have had no exposure to the specifically Canadian material in that area. In these situations -- where the Canadian material does not form the bulk of the course, but is only an aspect of it -- it would be possible to offer the applicant an exemption in that subject, provided that the applicant attended a remedial course and/or took an examination in which this material was covered. For example, registered chartered accountants from foreign jurisdictions with

approved training programmes are exempt from the Institute of Chartered Accountants of Ontario's course work requirements and Uniform Final Examination, but are required to pass examinations in Canadian law and taxation.<sup>17</sup> England's Law Society plans to require all otherwise exempt foreign transfer applicants to take certain "international exams" covering branches of law in which there are many jurisdictional peculiarities.<sup>18</sup>

c) Exemptions can be granted to all applicants licensed in a particular jurisdiction if the Ontario licensing body is convinced that all the academic training programmes approved in that jurisdiction are satisfactory. It may be, however, that Ontario officials are satisfied with the quality of some but not other programmes approved in that jurisdiction, and if that is the case then exemptions could be granted to candidates licensed in that jurisdiction who had degrees or diplomas from certain approved institutions.

d) Many professional licensing bodies in and outside Canada have "grandfather" provisions which admit some applicants without requiring any academic qualifications or examinations; usually these provisions were designed to admit professionals practising at the time the licensing system went into effect, regardless of qualifications, but would require all new applicants to meet standards as to education and work experience. Transfer applicants who have been licensed in their home jurisdictions without measuring up to academic and exam requirements should not be granted exemptions.

e) An individual's personal record of academic achievement should also be reviewed to see if that merits any additional exemptions. It is possible that a transfer applicant may have taken professional courses not required by his licensing body or the institution which granted his degree which are equivalent to those required by the Ontario licensing body.

f) As was noted before, there may be a few courses required in an Ontario profession in which practical experience may in fact be equivalent to course work. A transfer applicant's work experience record should be

reviewed to see if such an exemption is merited. (See point 8 for discussion of assessment of work experience at the provincial level.) In some cases, a transfer applicant may have accumulated many years of practical experience, and such an exemption would be highly appropriate. If such exemptions are granted to transfer applicants, they should also, of course, be granted to domestic applicants who qualify (e.g., a long-time employee of a chartered accountant may be able to demonstrate work experience meriting some course exemptions).

g) If a provincial licensing body feels cautious about allowing exemptions for applicants from jurisdictions with which they have not had experience -- despite the evaluations provided by the national association -- then a probationary period for this exempt status can be established. During this probationary period, applicants from such jurisdictions could receive the exemptions recommended, but would also have to take a confirmatory or screening examination in the subject or exam papers from which they were exempted. These confirmatory or screening exams would be abbreviated versions of the exams administered by the licensing body, or by institutions approved by the licensing body, before registration, and would be designed to weed out obviously unqualified candidates. Such a practice is employed by the B.C. Architects Association in exempting inter-provincial transfer candidates from its Registration Board exams.<sup>19</sup>

h) Information about exemptions accorded to categories of transfer applicants from particular jurisdictions or with particular academic qualifications should be readily available in printed form to those who request it. Sometimes the "nuts and bolts" of a licensing body's policy with respect to transfer applicants are not in the body's informational circular, or any pamphlet, and are only obtained through personal letters from a licensing official. If a body's transfer exemptions are printed and available to the public, this openness is a force towards consistency in the policy. It also, of course, makes it much easier for the body to answer the queries of potential transferees.



6. An examination alternative to additional course work for foreign transfer applicants. Some transfer applicants who are denied exemptions and required to complete additional course work before licensing in Ontario may feel that it is an unnecessary expense to them to enroll in and complete several courses in subjects which they could master through study on their own in a much shorter period of time than is required for a course. Or they may have already gained competence in these subjects through informal study or work experience, competence which is not reflected in the assessment of their formal academic training and in their permitted exemptions.

It is submitted that such applicants, if they have completed a degree or other academic training programme required in their own jurisdiction of the same or greater length to that required in Ontario of members of the profession and if they are licensed in their jurisdiction, should be permitted to write comprehensive final examinations developed at a national level (in most professions, part of the body of knowledge which an applicant must master varies from province to province, and these examinations would have to vary accordingly). Examination papers would cover all material dealt with in required academic training programmes and in any final examination administered by the licensing body before licensing. If an applicant passes a particular paper on a subject area, he would be exempted from course work in that subject and from the corresponding examination in that subject (if any) in the licensing body's final examinations. A practice much like this is presently used by the Society of Management Accountants of Ontario in dealing with transfer applicants who cannot claim course exemptions on the basis of prior academic work.<sup>20</sup>

Such a policy would not be unfair to domestic applicants required to complete coursework and take licensing body exams, since transfer applicants permitted this option would have already invested time equal to that put in by domestic candidates in obtaining a degree or diploma and

writing exams in their own jurisdiction.

If the examinations developed for this purpose were sufficiently discriminating to assess adequately the candidate's competence, the public interest would not be endangered by this practice. In fact, it would be advanced in that the State would be saved the cost of subsidizing additional academic training for the transfer applicant in Canada.

However, many professional practitioners and academics may doubt whether an adequate exam can be developed for this purpose. It is suggested that many of these doubts arise because of deficiencies in present professional examinations, and that many of these deficiencies can be remedied if more attention and expertise are brought to bear in the development of an exam system.

The authors of a recent U.S. Department of Labour study, Occupational Licensing and Public Policy, observe that licensing bodies are frequently dissatisfied with evaluation which relies heavily on exams because these bodies have very inadequate examination systems.<sup>21</sup> The authors argue that there are a variety of common deficiencies in most professional exams, most of which could be corrected if exams were designed with the assistance of professional testing organizations instead of only by academics and practitioners in the profession who have no training in the science of testing and evaluation.

In the Department of Labour study a detailed critique is offered of the pitfalls usually found in occupational examinations, and suggestions are made as to how professional testing assistance could improve these examinations. A summary of this information is contained in an appendix to this paper.

7. Ontario or Canadian work experience requirements. All professional licensing bodies require a period of work experience in Ontario

or in Canada. Some licensing bodies allow complete exemptions from this requirement because of work experience in other jurisdictions; some allow substantial partial exemptions; some allow no exemptions.

It is submitted that it should only be required that work experience be completed in Ontario or Canada when that experience involves skills with a strong exclusively provincial or national component which could not be acquired from practice in another jurisdiction because conditions of practice there are very different. For example, if there is a significant difference in climatic conditions, building materials, and applicable law in an architecture transfer candidate's home jurisdiction and in Ontario, then there would be a good reason to require a certain amount of work experience to be completed in Ontario or in another jurisdiction which has similar conditions.

Some professional disciplines may by their nature have more local peculiarities than others. The nature of legal knowledge is dictated by cultural and historical tradition, and one would expect that experience in a system with quite different traditions than Ontario's would be of minimal usefulness to someone wanting to practise here. The scientific basis of architectural and engineering knowledge is more international, and one would expect that there are fewer respects in which purely local work experience is essential.

An analysis should be made of the skills or job functions which are to be learned by a student during his required work experience in the light of conditions of practice in Ontario. This analysis should identify those areas of work experience which are significantly affected because they are completed in Ontario or Canada. An assessment should also be made of the relevant conditions of practice in foreign jurisdictions from which transfer applicants come. Comparison can then be made to judge the

similarity of conditions of practice between that jurisdiction and Ontario or Canada.

Appropriate full or partial exemptions from Ontario's work experience requirements can then be granted to transfer applicants who have completed foreign work experience in required subject areas of a period greater or equal to that required in Ontario in a jurisdiction where the conditions of practice are similar to those found in Ontario. Transfer candidates should be required to complete in Ontario or Canada a period of work experience which is not set arbitrarily but has some rational correspondence to the time required to acquire the needed skills not acquired through foreign work experience.

8. Institutional arrangements to assess foreign work experience.

Some of the information needed to assess a foreign transfer applicant's work experience for the purpose of granting exemptions from Ontario work experience requirements is information about the conditions of practice and work experience requirements in an applicant's home jurisdiction, and some of it is information about the individual applicant's practical experience, both prior and subsequent to licensing in his home country.

Information of the former type is best obtained by the national association of professional licensing bodies, which will have the resources to collect this information, meet with representatives of foreign licensing bodies, and send representatives to other jurisdictions to conduct any investigations necessary.

It may be thought that an assessment of individual work experience is unnecessary if one has information about work experience requirements in the applicant's home jurisdiction. Such additional information will be unnecessary where experience specifications in the home jurisdiction correspond closely to those of the Ontario licensing body,

so that the Ontario body can be assured that a licensee from a particular foreign jurisdiction has experience in the areas and at the level of responsibility required. However, foreign experience specifications may not demand that those licensed have completed experience in all the areas which are required in Ontario. In such cases, inspection of individual records of experience is necessary to ascertain whether that individual meets Ontario requirements.

Collection and assessment of individual records of experience is probably best handled at the provincial level. The applicant can be interviewed and samples of work obtained. Detailed references can be required from former employers, and follow-up questions put to them by letter. Doubts about a candidate's strength in a particular area can be tested by simulated work assignments.

9. Restricted licenses. Legislation gives some licensing bodies a very narrow range of options: either license a candidate generally to perform without supervision all the tasks reserved to a licensed professional, or refuse a license. However, some self-governing professional bodies, such as several of the health professions regulated under The Health Disciplines Act, are allowed discretion to issue licenses which may be qualified by terms or conditions imposed by the licensing body.<sup>22</sup> It is submitted that all professional licensing bodies should have this power.

Such licences could be given to applicants who did not meet admission requirements in every respect, with appropriate safeguards, in order to respond to special consumer or applicant needs. Some suggested types of restricted licenses are:

a) Temporary licenses. Transfer applicants who are established practitioners with lengthy experience in their own country may have to make up some work experience, course work, or pass some licensing exams before



they can be eligible for admission to general practice. The hiatus before they can practice professionally again will often involve great financial hardship. It is suggested that this hardship can be eased and the public still protected if temporary licences were available to some transfer candidates, valid only if they practised as an employee and under the supervision of a fully licensed member of the profession and only for a limited period of time -- that which is required to make up the deficiencies in their training. Such a licence would only be open to applicants who had completed the major part of any required academic training, and had only to complete requirements -- a small amount of required coursework, if any, and licensing exams or additional work experience -- which could be completed in a fairly short period of time, perhaps a year.

b) Underserviced areas. The Health Disciplines Act's regulations allow doctors who have required degrees and internship but have not passed the required comprehensive exams to practise in underserviced areas of the province after passing screening examinations.<sup>23</sup> This license is restricted to practice in the geographic areas specified. If a severe shortage of crucial services in another profession existed in remote areas of Ontario, then this sort of licensing could be employed. It seems unlikely that such a problem could arise in the professions under discussion in this paper, with the possible exception of law. Accounting, architecture and engineering professionals usually deal with business clients who would not be so severely handicapped by remote geographic location as individuals who have no access to nearby medical services.

Licenses for underserviced areas should be open to both domestic and transfer applicants, who had not completed all licensing requirements, although transfer applicants might have more economic incentive to apply for them. It seems justifiable to restrict temporary licenses to transfer applicants, since such licences are specially designed

to deal with the temporary economic difficulties which can occur upon transfer. Temporary licences are presently employed in these circumstances by Ontario's College of Physicians and Surgeons and by the B.C. Law Society in dealing with inter-provincial transferees who lack required work experience.<sup>24</sup>

10. Occasional practice. A client may wish a professional, resident and licensed in another province or even another country, to perform some professional services for him in Ontario. Generally such a professional would not be eligible for a license from the appropriate Ontario licensing body because of his non-residence. However, there seems no reason why an adequately-qualified professional resident in another jurisdiction should not offer occasional services at a client's request in Ontario. Consumer demand would be met and if precautions were taken to insure that the out-of-province practitioner's credentials are adequate, then the client and the general public (who might be affected by the practitioner's work -- e.g. in engineering or architecture) would be protected.

It is suggested that a licensing body have authority to grant permits for occasional practice on a project-by-project basis to professionals licensed in another jurisdiction who demonstrated the desire of an Ontario client for their services. Permission would be given without conditions if the applicant was licensed in his own jurisdiction and if he possessed qualifications which would admit him to practice immediately if he was applying as a transfer applicant for a general license. If the applicant had proper qualifications with respect to academic degrees or training and work experience required for a general license except for deficiencies in the area of Canadian content, he would, although he had not passed licensing body exams, be permitted to practise under the supervision of a licensed Ontario member of the profession.

No limit would be imposed as to the number of times a permit for occasional practice would be granted, and a permit could be refused only because the applicant lacked adequate qualifications.

11. Hearing and appeal rights. A right to a review of a licensing body's decision should be given transfer applicants from other provinces or countries in the event of a refusal of a license, or a refusal by the licensing body to grant requested exemptions from required academic work, comprehensive licensing body exams, or work experience. It is preferable that this right also be given to domestic applicants; although they might have fewer occasions to make use of an appeal system than transfer candidates, one can envisage situations in which they would want this right (e.g., rejection of a work experience record as inadequate for licensing). However, a grant of these rights to only transfer applicants could be justified because of the greater economic investment a transfer applicant has made in being able to practise his profession. Since the economic stakes in the decision to refuse or grant a license are high -- at least from the individual applicant's point of view -- it is desirable that the right of appeal accorded when a license is refused incorporate substantial procedural protections which allow the applicant to know why his application is refused, to present his case as to why it should be accepted, and to appeal a refusal to a body which has no suggestion of bias in its composition.

Some licensing bodies have allowed unsuccessful applicants only a direct appeal to a Court. This seems inadvisable for two reasons. Although impartial arbitrators are necessary in such situations, it would also be helpful if such arbitrators had fairly detailed knowledge of the conditions of practice in the profession. It would be difficult and time-consuming to conduct a judicial appeal in such a way as to give a judge this background information. Furthermore, the Committee on the Healing Arts commented in its discussion of professional appeals that courts are too



likely to defer to the judgement of the professional licensing body in appeals.<sup>25</sup> Another forum for appeal, with adjudicators who were unbiased but who have background knowledge of the profession, is desirable.

The following hearing and appeal system is proposed for transfer applicants:

a) A licensing body should give notice to an applicant of any intention to reject his application for a license or of the exemptions from license requirements which it proposes to give in his case. Written reasons for the proposed decision would be given if requested by the applicant. If the applicant wishes to dispute the proposed decision, he would have an opportunity to appear before the body's registration or admissions committee with counsel and argue his case or to make written submissions. A committee's decision after hearing would then be either confirmed or denied by the governing council of the licensing body.

b) If the applicant wished to review the decision of this body, then he would apply to an Appeal Board. (This Appeal Board could be developed from the already existing Health Disciplines Appeal Board, given extended terms of reference.) The Appeal Board would be a quasi-judicial tribunal of trained adjudicators (perhaps lawyers) who were not members of the profession concerned. A single adjudicator or perhaps a panel of adjudicators would preside at a hearing in which the licensing body's decision was reviewed and in which both the applicant and licensing body would present their case. Adjudicators would specialize in reviews within one profession, and thus quickly accumulate knowledge of conditions within the profession. An adjudicator could substitute his decision for that of the licensing body.

c) Decisions of an adjudicator could be appealed by either party to a judge of the Divisional Court on a point of law alone.

12. Reciprocal agreements. If it is accepted that the licensing function is an inappropriate mechanism with which to attempt to restrict the

flow of professionals into the province because of concerns about excessive supply of professionals, then it follows that reciprocal agreements between jurisdictions providing for admission of professionals from another jurisdiction on condition that Ontario professionals will also be admitted in that jurisdiction are not in order. Certainly consultation and exchange of information between licensing bodies in different jurisdictions is important, and can lead to a greater uniformity of standards between jurisdictions which is a prerequisite to a free flow of professional manpower. But reciprocal agreements of the type described incorporate considerations which are inappropriate in a professional licensing system, which should exist only to protect the public and not the interests of resident professionals.

13. Discretion to waive admission requirements. There will always be a few cases in which an applicant for a license is clearly competent to practise on the basis of an outstanding work record or academic qualifications, but does not meet the literal admission requirements or qualify for exemptions under existing rules. Licensing bodies should be given discretion to waive admission requirements in exceptional situations. If this is not the case, then the exceptional applicant will be required to complete needless preparation and may be discouraged from entering the profession. Or the licensing body may go to the trouble of amending regulations meant to deal with the bulk of applicants in order to handle one case.

It might be feared that this broad discretion would be abused by a licensing body. There seems little likelihood of this, as licensing bodies in self-governing professions tend, if anything, to be over-protective of their standards for licensing. For example, certified general accountants have claimed that the Public Accountants Council consistently refuses to exercise its discretion in exceptional cases although it is given the power

to do so.<sup>26</sup> All licensing bodies regulated by The Health Disciplines Act have this type of discretion.<sup>27</sup>

#### IV. LAW AND TRANSFER APPLICANTS

##### A. Current Regulations Governing Admission to Practise for Non-transfer Candidates<sup>28</sup>

A non-transfer candidate who wishes to be entitled to practise law in Ontario must become a member of the Law Society of Upper Canada (L.S.U.C.). To be admitted to L.S.U.C. a candidate, beside paying the required fees and being a Canadian citizen or British subject, must:

- \* graduate from a law course in a Canadian University which is approved by Convocation;

- \* complete the eighteen month Bar Admission programme, which consists of twelve months of articling and six months of attendance at and successful completion of a training course and exams conducted by L.S.U.C.

The Law Society Act does not allow L.S.U.C. to waive any admission requirements in special circumstances.

##### 1. Approved Canadian law degrees<sup>29</sup>

The Law Society Act and regulations and the Society's rules do not set out what factors should be considered by Convocation (the Society's governing body) in approving or refusing to approve a law course in a Canadian university. However, the Society in practice requires that a law programme contain certain mandatory core subjects in the first year of the programme; provide a basic curriculum of specified subjects; have an annual term of at least thirty pre-exam weeks, for a total of 450 hours yearly of classroom time; have a minimum of five full-time staff; and

require as a prerequisite to admission to the programme a prior degree or two years' academic work from a recognized university.

When a university applies for approval of its law programme, information about the proposed curriculum and staff is circulated to the deans of the currently approved law schools (now fourteen) for comment. The Society's Legal Education Committee evaluates the application and makes a recommendation to Convocation, which will not approve a law programme unless all law schools agree that the programme is adequate and unless this programme meets the minimum standards referred to above.

This does not mean, however, that there is strict uniformity of standards among all approved law courses. For example, Ontario law schools only have seven required subjects, while many western Canadian schools require eleven core subjects. There is also some variation in the list of required subjects from province to province -- admiralty law, taxation, and corporate law are all subjects which are required in some other provinces but not in Ontario. There is also, of course, a fairly wide variety of optional courses offered from school to school.

## 2. Articling

Articling in Ontario involves one year of practical work experience under the supervision and in the employ of a member of the Society (the student's principal).

There is no requirement as to the qualifications of a member acting as a principal or the variety or the degree of experience he must be able to offer a student. There is no requirement that a student must have experience in particular areas or be exposed to particular degrees of responsibility, and the student is not required to make any report of what he has done during his articles to the Society. The Society does, however,

suggest to the student a range of experiences he should have during articling. The Society exercises no supervision over the articling process except to require a signed declaration from principal and student upon completion of articling that the student has served conscientiously during the twelve month period.

The Society's McKinnon Committee report in 1972 stated that there was no attempt to enforce "generally similar standards" in the articling experience and that it would not be feasible to do so.<sup>30</sup> The McKinnon Committee feared that stricter controls would be too difficult and expensive to enforce, and might cause members to withdraw offers of articling positions. The report also stated that one-third of the students questioned by the Committee found some important aspect of their articling unsatisfactory. The Committee suggested that articling be abolished, and the Bar Admission course restructured to offer more simulated practical experience. Its recommendations were not implemented.

### 3. Bar Admission Course

The Bar Admission course is offered from September to February each year for candidates who have completed articling. Students must enroll in and attend the course, which involves thirteen subjects, and successfully complete exams in these subjects at the end of each teaching period. The curriculum aims to give the student practical knowledge required in a general practice which might not have been obtained in law school courses. Most of the material covered is in fact available in university law school courses.

A report by Kenneth Jarvis, L.S.U.C. Secretary, circulated by a subcommittee of the Legal Education Committee in 1976 suggested that the present course be abolished.<sup>31</sup> The report suggested retaining the exam



programme to ensure high standards of competence, but abolishing the course itself, replacing it perhaps with an optional tutorial system. The report stated that the intensive course work completed for a law degree and the articling experience were generally sufficient to ensure adequate preparation for the exams; students who felt a need for further instruction could avail themselves of a tutor's assistance. No decision has been made by the Society on these suggestions.

#### B. Transfer from other provinces

Sections 3 and 4 of the regulations made under The Law Society Act relate to the admission to practice of a lawyer by transfer who has actively practised law in another province or territory of Canada.

An applicant must:

(a) have been engaged in the active practice of law in a province or territory of Canada for at least three of the five years immediately preceding his application and file a certificate of good standing with respect to his membership in his local society as well as evidence of active practice;

(b) pass exams in Ontario statutes and procedure.

An applicant who is a member of the Quebec bar must in addition to fulfilling the above requirements pass a comprehensive common law examination. An applicant from the Quebec bar who has less experience in active practice than three years is required to complete the Bar Admission programme (which includes articling), to which he will be admitted after filing a certificate of good standing in his law society and completing a one year conversion course in common law. Apparently, such a course does not exist at present.

The "active practice of law" required by a transfer applicant is undefined by the regulations except to say that it includes service in



a legal capacity with a Federal government department or with the Canadian armed forces. It is apparently not sufficient proof of active practice of law to show that one has been a registered member of another provincial law society -- the type and intensity of practice during the relevant period is scrutinized. The teaching of law, even when mixed with part-time private practice, does not qualify as "active practice of law".<sup>32</sup> It is unclear what other legal work somewhat different in character from private practice on a full-time basis (e.g. counsel work for a corporation, research and policy work for a provincial commission, or legal work within a provincial government department) would be acceptable to the Society as "active practice".

The examination in Ontario provincial statutes and procedure given to transfer applicants has two parts, oral and written.<sup>33</sup> The examination board conducting the exam consists of the Director of the Bar Admission Course and two practitioner members. Candidates are given very little information as to the scope or nature of the exam. They are told that "questions will be directed to the statutes and the practice and procedure peculiar to Ontario and relate to matters of a practical nature which a barrister or solicitor might be expected to encounter in his early days of practice", and given a three-page list of statutes to which attention "may be particularly directed". No sample examination is available and no suggestion with respect to materials helpful in preparation for the exam is provided. The exam is conducted three times a year.

The comprehensive common law examination<sup>33a</sup> required of Quebec transfer applicants has two parts. No information is provided to candidates about its nature or scope except for a short list of topics which may be covered; sample exams are not provided nor source materials suggested. Society officials say that sample exams are not provided because secrecy

about exam content must be preserved; the Society has only five sets of exams, and finds it difficult to develop acceptable exam questions. The exam may be rewritten only once, and both parts must be passed at one sitting.

The common law exam is also administered by L.S.U.C. on behalf of other provincial law societies to transfer applicants from foreign countries. For example, British Columbia will admit a foreign-trained transfer applicant to practice in B.C. after he articulates and takes the bar exams in that province if he has an approved common law degree and has passed Ontario's comprehensive common law examination. (Ontario's method of dealing with such transfer applicants does not entail the completion of this examination.) The exam can be administered outside Ontario for applicants from outside Canada.

#### C. Transfers from other countries

In 1975 all special regulations governing transfer applicants licensed in jurisdictions outside Canada were revoked. Now such applicants must meet exactly the same requirements made of an aspiring local entrant trained in Ontario: graduation from an approved law course in a Canadian university (with possible advanced standing for foreign courses) and completion of the Bar Admission programme (articling and the course itself and its exams).

##### 1. History

In the early 20th century a barrister licensed to practise in England, Ireland or Scotland or any British colony or Canadian province could be admitted to the Ontario bar if his home jurisdiction had reciprocal privileges for Ontario barristers.<sup>34</sup> The rule was roughly the same for

solicitors, except a one year clerkship in Ontario was also required.

These rules remained largely unchanged until the late 1950's, except with respect to transfers of solicitors from other provinces.<sup>35</sup>

By the late 1950's there had been substantial changes in legal education in Ontario -- the requirement of a university law degree as a qualification to practise, the recognition by other provinces of common standards for a law degree (creating the "portable" LLB), and the creation of the Bar Admission training course to remedy practical deficiencies in university legal training, a course which all domestic applicants were required to take. The Society changed its rules with respect to foreign transfer applications to require all such applicants to complete the Bar admission course and articles, regardless of other qualifications.<sup>36</sup> Most foreign transfer applicants (with the exception of U.K. solicitors) also had to have a certain minimum period of active practice (three to five years) immediately preceding their application to the Bar admission course. All except applicants licensed in the U.K. also had to show graduation from a law course approved by Convocation.

This system did not work well. In the late 1950's and early 1960's the Society experienced a sharp increase in transfer application from lawyers licensed in jurisdictions other than the U.K.<sup>37</sup> The Society was familiar with U.K. standards and apparently felt them quite adequate to ensure competent practice in Ontario. However, Society officials found that they could not do an adequate job of evaluating legal education in other jurisdictions. They relied heavily on the dean and faculty of Osgoode Hall law school, and the school simply did not have the tools to make comprehensive evaluations. Kenneth Jarvis, the Society's Secretary, said in 1974: "In most cases they had nothing to go by beyond a syllabus more or less out of date, the comments of other evaluating organizations such

as the American Bar Association and whatever other information there happened to be in the knowledge of the members of the Faculty."<sup>38</sup>

The Society did not give up trying to evaluate foreign degrees, but supplemented its evaluative process in some cases by requiring applicants to take a comprehensive common law exam in addition to having active practice of five years and an approved common law degree.<sup>39</sup> Applicants from the U.K. and Australia and New Zealand did not have to take this exam, but applicants from any other Commonwealth country and the U.S. did.

The Society felt that this system worked reasonably well, and changed it in 1973<sup>40</sup> only because the Conference of Governing Bodies (now the Federation of Law Societies) urged all provinces to adopt its draft set of regulations with respect to foreign transfers. L.S.U.C. officials thought Ontario had a problem with "backdoor" foreign transfer applicants (those who transferred first to a province with less stringent standards, and then transferred to Ontario), and felt uniformity among provinces would eliminate this problem.

Most other law societies did not adopt these regulations, however, and L.S.U.C. found them almost impossible to administer. The regulations allowed admission to the Bar Admission programme of an applicant who had actively practised three of the five years immediately preceding his application in a jurisdiction "with established customs, practices and usages in respect of the practice of law that are the same or substantially the same as in Ontario", who had educational attainments equal to completion of an approved Canadian law degree, and who passed the comprehensive common law exam. Lawyers from the U.K., Australia and New Zealand were deemed by the regulations to have education equal to a Canadian law degree, but were now required to pass the common law exam. There was no restriction as to what jurisdictions other transfer candidates could apply from.

Society officials had difficulty determining what evidence would show an applicant came from a jurisdiction with legal customs and practices similar to Ontario's, and felt that no foreign law degree could be equal to a Canadian one, since no foreign degree had Canadian content.

Therefore, in 1975, the regulations simply deleted any provisions with respect to foreign transfer applicants,<sup>41</sup> and required them to conform to domestic standards: an approved Canadian law degree and completion of the Bar Admission programme.

## 2. Evaluation of foreign degrees

This change has in practice meant that the job of evaluating foreign law degrees was shifted from the Admissions Committee of the Society to individual law school deans. A foreign transfer applicant must apply to an individual law school for admission to a degree programme; his foreign degree may merit advanced standing of up to two years in a three year degree programme. When the regulations were first changed in 1975, the Society had indicated that it might accept a statement that a foreign degree was "equivalent" to a Canadian one in lieu of an actual Canadian LLB, but has not done so.<sup>42</sup>

Canadian law deans have been unhappy with this arrangement because they do not have the resources to evaluate adequately foreign degrees.<sup>43</sup> There seems to be no consistent standard for or method of evaluation employed by the deans. At the University of Toronto, the law faculty will not evaluate the degree, but simply grants a foreign transfer applicant one year's advance standing towards it's own degree. At the University of Ottawa, those with "a very good degree" will be given two years' advanced standing, others only one year or none.<sup>44</sup> Not all faculties take into account an applicant's work experience in assessing how much advanced



standing he should receive.

Universities have either one or two year residence requirements for the granting of a degree, and this means that a transfer candidate may need to spend more time in Canadian legal university training than is actually necessary, in order to fulfill residence requirements. There is, at present, no provision for the candidate with an excellent foreign degree and credentials who could make up any deficiencies in his training in a programme of less than one year. L.S.U.C. has recognized these problems.<sup>45</sup>

These problems have been tackled on a national basis by the Joint Committee on Foreign Accreditation of the Federation of Law Societies (FLS) and the Canada Law Deans (CLD).<sup>46</sup> The Committee's goal is to establish a national subcommittee which will develop uniform standards for assessment of foreign law degrees, receive applications for evaluation from individual transfer applicants, and, with information received from the applicants and other sources, develop a profile of each applicant's legal education to be passed on to an individual law faculty, which would then make a decision as to how much advanced standing would be granted.

Although the Committee's primary role has been to try to create a national information-gathering (and not decision-making) subcommittee, it has also made tentative suggestions as to how law societies can handle transfer applicants who might be required to complete more Canadian university training than is necessary because of residence requirements. It was recommended by the Joint Committee on Foreign Accreditation that if an applicant's profile indicates that he requires less than one year's attendance at a Canadian law school, then he should be allowed to sit for remedial examinations in specific areas of Canadian law without further course work. The national subcommittee would administer this exam and provide the candidate with a syllabus, but it would be the candidate's responsibility to prepare himself for these exams. Upon



successful completion of the exams, the candidate would receive a "certificate of equivalence" from the national subcommittee and law societies would be asked to accept this certificate in lieu of a Canadian law degree.

Candidates who needed one year or more of remedial training would be required to attend a Canadian law faculty. In those few cases where an applicant required only one year's remedial training but enrolled in a university requiring two year's residence to obtain a degree, the national subcommittee could do an updated profile of the candidate at the end of one year's training and if justified could issue a certificate of equivalence. All those required to take any remedial work at a Canadian university would also be required to take the Law School Admission Tests (LSAT), and obtain a score of at least 400. (LSAT's are now required for admission to many Canadian law faculties.)

The national subcommittee would be located in Ottawa, and would meet at least three times a year to establish profiles of candidates. It has not been indicated where or how frequently remedial exams will be given. Exams will be marked by law school teachers. The FLS has not yet recommended to individual law societies that they accept this plan.

#### D. Comparative Transfer Regulations<sup>47</sup>

##### 1. Other Canadian Provinces

Other Canadian provinces have regulations with respect to transfers of lawyers from other provinces generally similar to Ontario's. (See Chart, p.64) However, there are some differences.

Saskatchewan does not require any minimum period of active practice for transfer from another province. Some provinces allow candidates with less than the "three out of five years" of active practice

required for immediate transfer to transfer through an intermediate route which admits them to practice after they have articulated in the province for a period of time less than that required of candidates within the province fresh from law school. Quebec allows those without the required experience to obtain a restricted certificate to practice if they will be working for one employer and will have no contact with the public.

British Columbia allows lawyers without the required active practice experience to be admitted to practice if they undertake to work for the year after admission as an employee-lawyer.

A foreign transfer applicant faces a longer mandatory period of retraining in Ontario than in any other province. (A minimum of two and one-half years is necessary; at least one year must be spent in obtaining a Canadian law degree, and eighteen months must be devoted to articling and the Bar Admission course and exams.) Ontario is apparently the only province which requires that transfer applicants already licensed in a foreign country obtain an approved Canadian law degree before admission to its Bar Admission programme. Many provinces provide that a foreign transfer applicant will be admitted to its Bar Admission programme (or be required to do a full or reduced period of articling and take bar exams, sometimes without attendance at the actual Bar Admissions course) if he has been in active practice for three out of five years immediately preceding his application and/or has an approved degree in common law. In some provinces the applicant is also required to pass the comprehensive common law examination developed by L.S.U.C. Some provinces (Saskatchewan, New Brunswick and Newfoundland) do not in every case require a foreign transfer applicant to complete articling in the province or enroll in the Bar Admission course if the applicant meets other requirements as to legal education and practical experience and passes provincial exams.

The stringency of Ontario's policy with respect to foreign transfer applicants as compared to other provinces might be partially justified by differences between regulations in Ontario and other provinces with respect to admission of domestically trained candidates. Although all provinces require an approved Canadian law degree of domestic candidates, some other provinces require less articling time and none have a bar admission course as long or as extensive as Ontario's. However, it should be remembered that Ontario accepts transfer applicants from other provinces with three years practical experience who have not articulated in Ontario or taken Ontario's Bar Admission course.

## 2. England

England now handles transfers from solicitors licensed in foreign jurisdictions on the basis of reciprocity. An Order in Council designates Commonwealth countries with legal education programmes similar to England's who also have terms of admission for English solicitors as favourable as English regulations with respect to solicitors from that jurisdiction. Lawyers from these jurisdictions -- depending on the quality of their legal education -- may be required to take all or part of the Society's qualifying exams before admission to practice. The Society intends to require in the future that all solicitors who have qualified elsewhere in the Commonwealth pass a special "international exam" with four subjects covering areas peculiar to practice in England and deemed especially important -- Revenue Law, Accounts, Conveyancing, and Professional Conduct and Etiquette.

Solicitors licensed in countries not designated in the Order in Council must qualify under domestic training regulations. Foreign common law degrees of sufficient quality can be accepted in lieu of an

approved English degree. A candidate with an acceptable degree will be required to article for four years in England and pass both parts of the qualifying exams. If the candidates' experience and training is of sufficient quality, he can be granted up to two years exemption from articling and can be exempted from part of the qualifying exams.

### 3. United States

For comparison purposes it should be noted that domestic applicants in the U.S. are not required, as in Canadian provinces, to article or take a Bar Admission course before admission to practice. U.S. lawyers are licensed if they obtain approved pre-legal and legal education and pass a comprehensive state bar examination.

State rules with respect to transfer of lawyers qualified in other U.S. states seem similar to Ontario's with respect to transfer of lawyers from other provinces. A period of active practice immediately preceding the application (and sometimes exams in state statutes or professional responsibility) is required. However, an alternate route to transfer is offered through completion of a state's bar exams to those who cannot meet "active practice" requirements.

State rules with respect to the transfer of lawyers from other countries are in some cases much more flexible than Ontario's.

Michigan adopts a stance similar to Ontario's. All foreign transfer applicants must take bar exams, and a prerequisite to the writing of the exams is possession of an approved American law degree.

New York, although it requires foreign transfer applicants writing the bar exams to have an approved American law degree, does allow applicants without the degree to petition to the Court of Appeals for a waiver where strict compliance would cause unnecessary hardship. The Court

conducts a case-by-case evaluation of the applicant's credentials (work experience and academic training) and may order the applicant admitted to the bar exam or may specify requirements he must meet before writing the exam, such as a period of clerkship or completion of a graduate degree at an approved law school.

In California, a foreign transfer applicant without an approved American law degree who has practised in an English common law jurisdiction will be admitted to practice after passing the final bar exams if the committee of bar examiners considers his academic training and work experience adequate. In making this decision, the committee is directed by legislation to consider: the applicant's general education and legal education; his professional experience, other than legal; the nature and extent of his legal practice and the time he has practiced; and requirements met by the applicant for admission to practice in his home jurisdiction.

In California, a transfer applicant from a jurisdiction in which English common law is not the basis of jurisprudence may be allowed to write the final bar exams and be admitted to practice if he has four years active practice preceding his application and satisfies the committee that his qualifications and experience are sufficient to allow him to take the exams. Such an applicant must demonstrate to the committee that he has adequate preparation in the fundamental legal principles tested in the exam and that he has pre-legal and legal training substantially equivalent to that required of domestic applicants.

It should be noted that in all three states no minimum period of practice is required from foreign transfer applicants from other common law jurisdictions. They are admitted if their legal education is adequate and if they pass the bar exams.



V. LAW: COMMENTS AND RECOMMENDATIONS ON ONTARIO'S TRANSFER REGULATIONS

Of the four professions concerned in this study, the legal profession seems to have the least flexible policy with respect to transfers, but it should also be kept in mind that legal expertise is peculiarly jurisdiction-specific in many respects. The basis of legal knowledge -- unlike knowledge in engineering, architecture, and to a large extent accounting -- is the law of a particular jurisdiction. Ontario shares the base of English common law with England, members and former members of the Commonwealth and many of the U.S. states, but applicable statutory law is of course determined by its own legislature and the Federal parliament.

The evaluative and testing programme that the Ontario legal profession employs to evaluate qualifications of foreign transfer applicants seems less sophisticated and effective than that of the other professions concerned in the study, although the proposed national joint subcommittee represents a step towards improvement.

It is difficult to determine how many lawyers from other provinces or countries have wanted to transfer to Ontario and have been prevented from doing so under present regulations. No record is available with respect to unsuccessful applications which indicates whether the applicant was previously licensed in another jurisdiction. In any event, most prospective transfer applicants who would not qualify would find this out through informal inquiries, and would not submit formal applications. The Society's 1977 statistics showed that out of 11,530 members, only 286 were transfers from other provinces and only 65 were transfers from outside Canada.<sup>48</sup> One indication that the increased stringency of transfer rules has cut down on transfers from both other provinces and other countries can be seen in the Society's membership records. In the 1950's there were many more transferees in both categories than in the 1960's and the 1970's when the transfer rules were tightened.



A. Inter-Provincial Transfer Regulations

Ontario does not make any reassessment of the law degrees of inter-provincial transfer applicants, since all provincial law societies have similar standards with respect to domestic applicants. Ontario is concerned with assessing whether transfer applicants licensed in other provinces have sufficient knowledge of peculiarly provincial laws and procedure and, in the case of Quebec applicants, whether they have sufficient knowledge of the common law.

1. Minimum period of post-call experience

It is submitted that the regulations Ontario uses to assess whether inter-provincial transfer applicants possess this knowledge incorporate irrelevant considerations which present needless barriers to the mobility of legal manpower across Canada.

On the one hand, the regulations accept that applicants who have "three out of five years (post-call) experience immediately preceding their application" are sufficiently competent to prepare themselves for and be adequately assessed by examinations in provincial statutes and procedure, and, in the case of Quebec applicants, by an examination in the common law. This regulation seems to recognize that there are great similarities in legal systems across Canada, which share a common basis in common law (except for Quebec) and in Federal statute law.

On the other hand, applicants with less than the required three years post-call experience are not allowed to prove their knowledge in areas of law in which their home province differs from Ontario, but are required to spend an additional eighteen months articling and completing the Bar Admission course; Quebec applicants in this category must additionally complete a one year conversion course (which is not offered) in the common law.

The distinction made between applicants with three years post-call experience in their home provinces and those with less does not assist L.S.U.C. in determining their knowledge of law in Ontario which may differ from that in their home province. An applicant's post-call experience in, for example, Alberta, whatever the length of that experience, does nothing to insure that he will have adequate knowledge of Ontario statutes and procedure. Likewise, a Quebec applicant who has practised seven years in Quebec will not necessarily have any greater knowledge of the common law than one who has practised in Quebec for only one year.

If Ontario's exams in provincial statutes and procedure and in the common law are adequate tests of what they are meant to test, then there is no reason why an applicant licensed in another province, whatever the length of his post-call experience, should not be licensed in Ontario after passing the appropriate exams. The Society has expressed no concerns about the efficacy of these exams on the basis of past experience with the competence of lawyers admitted from other jurisdictions who have qualified by passing such exams. Furthermore, serious doubts have been expressed as to the value or necessity of both the articling programme and Bar Admission course.

Fairness, however, dictates that inter-provincial transfer applicants not be able to qualify for admission to the Ontario bar after fulfilling articling and Bar Admission course requirements in other provinces that are less onerous in terms of time required than the requirements of local Ontario candidates -- even if transfer exams are an adequate test of competence.

## 2. Practical experience

Transfer applicants with less than the twelve months practical experience required of Ontario applicants should be required to complete experience up to twelve months as a requirement of admission. Both articling and post-call experience in the home province should be taken into account in calculating the required amount of experience. There seems no reason not to take into account practical experience which has been gained in provinces other than the applicant's home province.

The restrictions which the Society apparently now employs in judging what constitutes the "active practice of law" (in evaluating a transfer applicant's claim that he has three years in the active practice of law in his home province) should not be employed in judging the quality of experience of provincial transfer applicants. In other words, experience gained by working as an employee lawyer giving legal advice to a corporation, provincial government or other group should not be excluded while employment in a similar capacity with the Federal government or armed forces is accepted. Local aspirants to the Ontario bar are required only to complete twelve months full-time experience in the practice of law under the supervision of an L.S.U.C. member; there are no absolute restrictions as to the type of law or manner of practice in which the student engages, and, for example, students are permitted to article with the provincial government in capacities which involve mostly legal research on their part. Likewise, twelve months full-time experience in the practice of law in the broadest sense in Canada is all that should be required of a provincial transfer applicant.

Transfer applicants who fall short of the required twelve month period of work experience may have a fairly short time to work in order to make up the deficiency. In these circumstances it might make sense to allow such applicants to complete required work experience in Ontario as employee-

lawyers with a temporary licence, working under the supervision of a Society member. However, this suggestion may be impractical because the articling requirement is not the final requirement of applicants to the Bar in Ontario, but is followed by attendance at the six month Bar Admission Course.

The application of the Bar Admission course requirements to inter-provincial transfer applicants is discussed in the next section of this paper. If it is felt necessary to require all inter-provincial transfer applicants to complete the course (one alternative which I suggest), then it would be unfair to domestic applicants (who are not licensed until completing the course) to allow such applicants to be temporarily licensed during the course.

### 3. Bar Admission course

Provision for equitable treatment of local candidates and provincial transfer candidates with respect to the Bar Admission course requirement made of all local applicants presents a difficult problem. Even if a provincial transfer applicant can prove his knowledge of peculiarly Ontario law by exam, this is not an option open to local candidates who do not wish to take the Bar Admission course. This latter group must spend six months in the course. Exemptions for provincial applicants for time spent in their own Bar Admission courses would cause administrative difficulties. Different provinces require different periods of time -- all less than Ontario's -- to complete the course. The Ontario course is divided into subject groups, and it would not be reasonable, for example, to require an applicant from Saskatchewan (which requires a course of only one month's duration) to complete only five months of Ontario's course, and arbitrarily exempt him from one or two subjects in the course.

It is possible that the fairest route is to require all inter-provincial applicants to complete the entire Ontario Bar Admission course

required of local applicants, despite the fact that at present some individuals in the former group (those with three years post-call experience) are exempted from that requirement. The Ontario exam on statutes and procedure would then be abolished. If however, it is accepted that the only reason to make this requirement of provincial transfer applicants is to insure that they do not receive more favourable treatment than that given to local applicants in terms of time required to qualify for a licence and that the knowledge of such applicants of law peculiar to Ontario could just as well be insured by the completion of the exam in Ontario statutes and procedure, then an alternative is suggested. If transfer applicants have obtained work experience in the practice of law in Canada which is equal in duration to the time spent by local applicants in the articling programme and Bar Admission course -- eighteen months -- then they could be admitted to practice after passing the Ontario exam in statutes and procedure and, in the case of Quebec applicants, the exam in the common law.

#### 4. Examinations in Ontario statutes and procedure and in the common law

The system of transfer regulations suggested above assumes the adequacy of both the Ontario exam in statutes and procedure and in the common law. It is difficult to tell if this assumption is justified. Neither exam was available for inspection by the author, as Society officials feel that disclosure of the contents would reduce the effectiveness of the exams in testing candidates in the future and state that the Society would have great difficulty in constructing new exams.<sup>49</sup> No studies have been done as to the effectiveness of these exams at present in testing what they are supposed to test. However, the Society did not express any dissatisfaction with the effectiveness of these exams in the context in which they are now employed -- testing the knowledge of provincial transfer applicants with at least three



years' post-call experience.

If it is felt that these examinations may not be adequate for their purpose, then efforts should be made to improve the exams before it is concluded that exams are an inadequate tool to assess competence in this situation. Exams are a less expensive method of assessment -- both for the applicant and the Society -- than requirements which insure competence by insisting on additional articling and enrollment in a lengthy State-supported Bar admission course.

L.S.U.C. apparently relies heavily on practitioners or academics who have knowledge of law but little or no formal training in the science of testing and evaluation to develop its examinations. As was pointed out, this practice commonly leads to inadequate examinations. The Society should make efforts to improve its exams if this is felt necessary, by engaging professional testing services, such as those offered by the Educational Testing Service, a widely respected consulting group in the U.S.. Such consultants, besides improving the quality of exams, could conduct validity studies of the exams (researching the relationship between exam performance and competence in practice) which would provide useful feedback. The cost of such assistance could be reduced if law societies in several or all provinces cooperated in retaining professional testing consultants to develop a standard common law exam and to develop exams in statutes and procedure for each province which followed a standard pattern. Such cooperation might be achieved through discussions within the already-established Federation of Law Societies.

At present very skimpy information is provided applicants who intend to write the exams in Ontario statutes and procedure or the common law exam about what is covered in these exams and how best to prepare for them. It is advisable that applicants who intend to write these exams be



provided with a comprehensive syllabus of the subjects covered, a reading list relevant to preparation, and samples of past exams. If the numbers of those taking the exams warrant it, it might also be helpful to arrange (either through the Society or law faculties) for brief intensive prepratory courses or for the development of written material for preparation to be offered at a fee to those taking the exams. In the U.S., private companies offer such courses for applicants preparing for state bar exams, and such a system is apparently satisfactory in many states.

The common law exam now administered to Quebec transfer applicants with at least three years post-call experience covers subjects which are matters of Federal jurisdiction -- e.g., Criminal law, Constitutional law, and Bankruptcy. There is no reason to believe that Quebec lawyers have any less knowledge of these subjects than lawyers from other provinces, and applicants to the Quebec bar are tested in such subjects before admission. Therefore transfer applicants from Quebec should not be required to take parts of the common law exam concerned with Federal law, although these subjects should remain in the exam if it is used to test transfer applicants from other countries.

5. Summary of recommendations with respect to inter-provincial transfer regulations

1. The present regulations which provide for different treatment of such transfer applicants on the basis of whether they have completed three out of five years of active practice immediately preceding their application should be abolished.

2. Such transfer applicants should be admitted to practice in Ontario if:

a) they have completed twelve months' of either articling or

post-call experience of the practice of law in Canada.

b) they have completed the examination in Ontario statutes and procedure and, in the case of applicants trained in Quebec, have completed the common law examination.

c) no definite recommendation is made as to the Bar Admission course. Either all provincial transfer applicants should be required to take it, or all those who have completed eighteen months work experience in the practice of law in Canada (made up of articling and post-call experience) could be exempted from the course and those without that period of experience required to complete it. If all inter-provincial transfer applicants are required to complete the Bar Admission course, then the exam in Ontario statutes and procedure would be redundant. However, it would still be necessary to administer the common law exam to Quebec applicants, since general common law subjects are not covered in the Bar Admission course.

3. If it is felt that examinations in Ontario statutes and procedure and in the common law are not adequate, then efforts towards the improvement of these exams should be made by L.S.U.C. with the assistance of a professional testing organization and more complete information on the exams, and remedial programmes and materials, should be offered transfer applicants writing these exams.

## B. Transfers from Foreign Countries

### 1. Canadian law degree requirement

Ontario's present requirement that all foreign transfer applicants complete a Canadian LLB leads to unduly harsh and inconsistent treatment of such applicants. All such applicants, even if their academic credentials are excellent, must spend at least one year in obtaining a Canadian LLB and some

must spend two years because of university residence requirements. Applicants do not receive consistent treatment in evaluations by different Canadian law faculties. Canadian law deans who must make the decisions as to advanced standing granted and courses to be required are dissatisfied with the system.

The system proposed by the Joint Committee of the Federation of Law Societies and the Canada Law Deans (FLS/CLD) will remedy some of the defects in the present system if adopted by L.S.U.C. This system has several merits:

- 1) It establishes an institution which would collect information about the requirements for admission of foreign licensing bodies, foreign law degrees, and the individual foreign applicant's academic record and which would attempt to develop national guidelines as to exemptions to be granted in some situations.

- 2) It would recognize equivalence of subjects taken in a foreign jurisdiction to some courses offered in Canadian legal programmes and not always require that an applicant obtain a Canadian LLB, but allow him to demonstrate equivalent qualifications. Final decisions as to academic qualifications and exemptions would lie with the Society rather than law deans with different policies. This should lead to a consistent treatment of foreign transfer applicants and prevent the requirement of course work at a Canadian law faculty only necessary to satisfy university residence requirements of one or two years' enrollment to receive a degree.

- 3) It considers in evaluating a foreign transfer applicant not only the requirements necessary to obtain a licence in his home jurisdiction or to obtain a degree at the university which he attended, but takes into account his individual academic record, which may indicate additional coursework completed by him which could merit further subject exemptions.

4) It provides an examination alternative for those applicants who might now be required to spend at least a year enrolled in a Canadian law faculty when their records indicate that that amount of additional coursework is unnecessary.

However, several suggestions can be made to improve the system proposed by the FLS/CLD Joint Committee:

1) An analysis of the subjects which are required and optional in the approved Canadian law degree programme should be made to identify the standard to which foreign degrees are to be compared. This analysis could identify subjects which are grounded in common law principles (but which include Canadian case law and statutes) and subjects which are generally based on statutes and case law which are unique to Canada or Ontario. For example, torts or contracts would probably fall into the former category, and tax and constitutional law into the latter.

Transfer applicants from jurisdictions in which jurisprudence is based on English common law and who were required to obtain a common law degree to be licensed could be given general exemptions in common law subjects if they took remedial courses offered by the Society which covered peculiarly Canadian or Ontario aspects of the subject and passed screening or confirmatory exams in these subjects. Such applicants would still be required to complete Canadian university courses in subjects concerning law which was primarily Federal or provincial in origin.

2) An attempt should be made by the proposed evaluation sub-committee to develop general rules which would apply to all transfer applicants from a particular jurisdiction (with the exception of those who were licensed without meeting that jurisdiction's requirement for a law degree). These rules would specify subject exemptions which would be given applicants licensed in that jurisdiction.

This method of granting exemptions has been criticized before, because individual applicants licensed or trained in any jurisdiction may vary widely in competence and ability. This is of course true, as it is true of individual lawyers trained and licensed in Ontario. The function of the requirement of a period of legal education before admission to the Ontario bar, however, is primarily to establish and preserve a minimum standard of competence. This is also the function of legal education requirements in other jurisdictions. The relevant question is whether there are similarities between the scope and standard of the minimum requirements in a foreign jurisdiction and those in Ontario which merit exemption of transfer applicants from that jurisdiction from some of Ontario's subject requirements.

If the similarities are great enough to merit an exemption (perhaps in some cases with the additional requirement of completion of a remedial course in the Canadian aspects of that subject), then this should be specified in a rule. Individuals who have academic qualifications in excess of that required by their jurisdiction might merit further exemptions, but the creation of a rule which would apply to most cases would save the evaluative subcommittee time and expense, and would also lead to fairer and more consistent treatment of transfer applicants.

To provide another safeguard in granting exemptions to applicants from particular jurisdictions, it could be provided that in the first year or two after which an exemption for a subject for applicants from a particular jurisdiction is granted, such applicants will also have to pass confirmatory exams in that subject. The results of these exams could be analyzed to decide whether it is appropriate to retain the exemption. For example, if fifty per cent of the applicants from a newly exempted jurisdiction failed the confirmatory exam in a subject, this would probably indicate that the exemption on a jurisdictional basis was not justified.



3) An evaluation of foreign academic credentials should also take into account foreign work experience which may demonstrate a knowledge of a subject not taken in university. This practice is followed by the Association of Professional Engineers of Ontario in assessment of foreign transfer candidates.<sup>50</sup> A transferring lawyer could submit samples of work he has completed or provide detailed references from past employers setting out his work experience.

4) The national evaluative subcommittee's information gathering and evaluative procedures should be carefully designed and appropriately funded so that its evaluations are not just a repetition on a national scale of what L.S.U.C. criticized in its own evaluations a decade ago -- a haphazard process relying on outdated calendars, scanty information from foreign licensing bodies, and the happenstance knowledge of committee members. The subcommittee must establish and maintain an adequate liaison with members of foreign licensing bodies through correspondence and occasional meetings to obtain information about legal education programmes in those jurisdictions and to make sure that it is notified of important changes in required curriculum or required standards of performance. In some countries national professional associations, such as the American Bar Association in the U.S., have developed lists of approved degree programmes in that country. This information can be useful in assessing the equivalence of law degrees in that country to a Canadian degree if the subcommittee carefully investigates the standards which the foreign umbrella association has employed in granting approval.

## 2. Work experience requirement

Foreign transfer applicants are now required to complete the year's work experience required of local applicants to the bar without any exemption for work experience in their own country.



This seems a generally valid requirement, if one assumes that the articling requirement is primarily aimed at giving applicants a working knowledge of procedures and practice in Ontario courts. However, there are other objectives achieved by articling which could in part be satisfied by work experience in other common law jurisdictions: learning advocacy, good office procedures and work habits, research methods and preparation of pleadings and documents, and developing an applied understanding of general common law principles and how they are extended by case law and of the process of statutory interpretation. It is suggested that a partial exemption from the articling requirement be given to transfer applicants from common law jurisdictions with common law degrees, based on work experience in this jurisdiction.

If inter-provincial transfer applicants are only required to complete the required period of work experience in Canada, rather than in Ontario, then the same requirement should be made of foreign transfer applicants. In other words, any work experience requirements for which they did not receive exemptions should be able to be satisfied by experience in any province of Canada.

### 3. Bar Admission course requirement

If a foreign transfer applicant has completed required university legal education and work experience, then the same considerations which apply to inter-provincial transfer applicants should apply to him in deciding whether it is necessary to require him to complete the Bar Admission course required of local applicants or whether completion of the exam on Ontario statutes and procedure will suffice as the final condition for licensing. The deficiencies the foreign applicant has in his university legal education with respect to subjects which have peculiarly Canadian or Ontario content (such as Constitutional law or Ontario civil procedure) will be cured before the

Society accepts his academic credentials and allows him to pass to the articling or work experience stage. Likewise, applicants from countries where common law is not the basis of jurisprudence will have had to take Canadian university courses to acquire knowledge of the common law. Furthermore, since foreign transfer applicants will usually be required to complete more Ontario work experience before call than inter-provincial transfer applicants, the former group will have more actual Ontario practice experience.

Therefore, both inter-provincial and foreign transfer applicants should have to satisfy the same Bar Admission course requirement. It may be decided that fairness to local Ontario applicants requires repetition of the course by all transfer applicants. Or, all transfer applicants who have completed articling or post-call experience of eighteen months (including any experience required in Canada) -- equal in duration to the time spent by the local applicant in articling and in the Bar Admission course -- could be exempted from the course and allowed to take the exam in Ontario statutes and procedure.

#### 4. Summary of recommendations with respect to foreign transfer regulations

1. The Law Society should approve and work to implement the national evaluative programme proposed by the joint FLS/CLD subcommittee for dealing with foreign transfer applicants with some modifications:

a) Required subjects which primarily concern English common law should be identified, and applicants licensed in jurisdictions in which English common law is the basis of jurisprudence and who have completed a common law degree should be exempted from these subjects after passing screening exams in Canadian or provincial of these subjects.

b) Wherever it is possible, general rules should be developed granting subject exemptions to all applicants from a particular jurisdiction

who were required to complete a law degree before licensure in the home jurisdiction. For example, rather than evaluating each transfer applicant from the U.K. individually in every respect, it might be possible to provide that all such transfer applicants who had obtained a law degree as a condition of licensure in the U.K. would be exempt from requirements for completion of courses in contracts and torts. Applicants from jurisdictions in the first or second year of an exemption could be required to take screening exams in the exempted subject.

c) Wherever possible, decisions as to exemptions from required subjects should take into account demonstrated work experience.

d) The national evaluative subcommittee should have sufficient funding and appropriate organizational capacity to insure that complete information is gathered about the licensing requirements and legal education programmes in all jurisdictions from which transfer applicants come, and to keep this information up to date.

2. Foreign transfer applicants from common law jurisdictions should receive partial exemptions from L.S.U.C.'s work experience requirement, based on their articling or post-call experience in their own country. Additional required work experience should be acceptable if received in any Canadian province.

3. As in the case of inter-provincial transfer applicants, no definite recommendation is made as to the Bar Admission course requirement. There are good reasons relating to the equitable treatment of domestic candidates to require all transfer applicants to complete the course. However, it would also be fair to allow foreign transfer applicants who had completed all required university legal education and Canadian work experience and who had eighteen months total work experience (which would be equal in length to the period spent by domestic applicants articling and in the Bar Admission course) to be

licensed after passing exams in Ontario statutes and procedure.

### C. Considerations Common to all Transfers

The recommendations herein will be briefly stated, and no summary of recommendations presented.

#### 1. Hearing and appeal rights

At present no appeal rights exist for local applicants or transfer applicants from other provinces or countries who are refused admission to the Ontario bar, although an applicant for admission does have a right to appear in person before a committee of the Society's Benchers (members of the governing body) before a final decision is made to refuse an application, to have written reasons for a refusal, and, if refused, to be allowed to make a new application for admission if additional evidence affecting his qualifications to practice can be presented.<sup>51</sup>

This practice falls far short of the hearing and appeal procedure which is outlined in section III.11 of this paper as appropriate to protect the interests of transfer applicants, and that procedure should be adopted. These procedural protections should be available not only to candidates who are flatly refused admission, but applicants at earlier stages of the qualification process who are refused desired exemptions from required university legal subjects or work experience; these latter decisions determine the time and money an applicant will have to invest in additional professional training.

Although it would be desirable to extend these rights to local candidates also, the consideration of fairness to local candidates alone would not demand that these rights be withheld from transfer applicants if not given to local candidates, since the economic interest of transfer candidates as a

group in being able to continue to practise a profession in which they have already engaged, often for a substantial number of years, outweighs the interests of first-time applicants.

## 2. Discretion to waive admission requirements

Convocation should, upon the recommendation of the Admissions Committee, have the discretion to waive any admission requirements in individual cases it considers exceptional. The reasons for this suggestion are outlined in section III.13.

## 3. Occasional practice

Admission to the Society for occasional practice is now granted by Convocation on a case-by-case basis and applicable only to counsel work in a particular proceeding. No standards are specified in the Act or regulations as to the factors which Convocation should consider in making such decisions.

It is inequitable to local applicants to the bar to allow lawyers from other jurisdictions who may not meet general Ontario requirements for licensing to practise here in specific proceedings, even on the basis of demonstrated expertise in the area of law involved in those proceedings. Local applicants who may have such expertise are not allowed to do so.

It is suggested that the system for granting licences for occasional practice follow the principles outlined in section III.10 of this paper. Admission to the Society would be granted to lawyers for the purposes of a particular proceeding or project (to cover legal work which is not litigation but which could otherwise constitute unauthorized practice of law) who produced a request by an Ontario client for their services. This licence would be without condition if the applicant was licensed in his own jurisdiction and had qualifications which would allow him to be admitted to



practice immediately if he was resident in Ontario. This in effect would mean that applicants even from other provinces would have to sit for the exam in Ontario statutes and procedure before obtaining an unconditional licence, but this is probably advisable if the lawyer intends to practise without supervision in Ontario.

An applicant for a licence for occasional practice who possessed proper qualifications with respect to university legal education and work experience but had not passed the exams in Ontario statutes and procedure would be licensed for such practice on the condition that he practise under the supervision of an L.S.U.C. member.

#### 4. Conditional licence for underserviced areas

If the provincial government feels that there is a serious shortage of lawyers in specific geographic areas, such as the far northern part of the province, then it could consider providing for conditional licences restricted to practice within these areas. However, given the large numbers called to the Bar every year and the shrinking job market, it seems unlikely that such shortages will persist for long.

If a system of conditional licences for underserviced areas was to be considered, such licences should be available to any applicant -- whether domestic or transferring from another province or country -- who had completed required university legal education and work experience, but who had not yet completed the Bar Admission course or any substituted requirement.

#### 5. National uniformity of transfer regulations

In order to promote mobility of legal manpower across Canada, it is desirable that the provinces set common standards for transfer applicants from other provinces and countries. Ontario may contribute to this mobility



by revisions of its own transfer regulations, but a coordinated effort among provinces would of course be more effective. A joint committee of representatives of provincial law societies and provincial attorney generals' departments would perhaps be a more appropriate forum for discussions aimed at this standardization than the Federation of Law Societies alone, as the former group could provide representation for professional interests and the latter for the public interest.

Ontario's present requirements as to articling and the Bar Admission course for local candidates are more stringent than most other provinces, at least in terms of the time required for completion. As was mentioned previously in this paper, L.S.U.C. has given serious consideration to recommending the abolition or drastic modification of both requirements over the past several years, but no recommendations have been approved by Convocation. It would undoubtedly speed negotiations about national standardization of provincial and foreign transfer rules if Ontario did make a decision as to how its post-law degree legal training programme should be structured, since the local approved programme is the measure against which all transfer regulations must be judged.

Transfer Rules*	LAW - TRANSFER STANDARDS - FOR APPLICANTS REGISTERED IN:	Quebec	Foreign Jurisdictions
Jurisdiction	Other Common Law Provinces	Quebec	Foreign Jurisdictions
<p><u>Ontario</u> (Law Society Act, R.S.O. 1970, c.238, as amended, and R.R.O. 1970, 556, as amended, and Law Society Rules)</p>	<p>-Active practice of law for 3 out of 5 years, immediately preceding application in other common law (CL) province or territory. -Pass exam in Ontario statutes and procedure.</p>	<p>-Same as for applicants from CL provinces, except must also pass comprehensive exam on common law.</p>	<p>-No special rules, must fulfill same requirements as non-transfer applicant. May be granted some advanced standing towards a Canadian LL.B. because of foreign degree or experience.</p>
<p><u>British Columbia</u> (Legal Professions Act, R.S.B.C., 1970, c.217, as amended, and rules)</p>	<p>-Degree from approved Canadian law faculty. -Completed articles (generally 1 year), attend tutorial lectures and pass exams (taken concurrently with articling).</p>	<p>-Same as applicants from other provinces, except must pass comprehensive exam on common law.</p>	<p>-Degree from <u>common law</u> faculty approved by benchers from University in U.K., N. Ireland, Ireland Australia, New Zealand, USA, (only A.B.A. - approved schools) <u>OR</u> active practice of law for 8 out of 12 years immediately preceding application in another <u>common law</u> jurisdiction.</p>
<p>*This refers only to substantive rules with respect to academic training or practical experience; other rules also exist with respect to how these qualifications will be proven (e.g., provision of certificate of good standing from another law society), fees, citizenship, age and of post secondary, pre-law university training.</p>	<p>-Pass exam in B.C. statutes and procedures.</p>	<p>-Pass comprehensive common law exam. -Article in B.C. for 12 months, and take tutorial course and pass exams.</p>	

	What Body Evaluates Qualifications?	Does Decision-making Body have discretion with respect to Acceptable Qualifications? *	TRANSFER RULES Are Transfer Candidates allowed a Hearing?	Appeal Rights from Decision Re Admission	Occasional Practice
<u>Ontario</u>	Admissions Committee - all members are benchers, and therefore are generally practitioners.	No.	Applicant to Society has right to "appear in person" before a committee of benchers before application is refused.	No.	Yes - at discretion of convocation, but only if Can. Citizen or British Subject; limited to specific job.
<u>British Columbia</u>	Credentials Committee - made up of benchers who are all practicing lawyers.	No.	None provided for in legislation.	Yes, to Court of Appeal.	Yes, for other Canadian, but not foreign lawyers; limited to specific job.

\*"Discretion" refers to the authority to admit even if applicant does not meet formal requirements, on basis of experience or past performance in legal work.

TRANSFER	STANDARDS - FOR APPLICANTS REGISTERED IN:	Quebec	Foreign Jurisdictions
<p>Non-Transfer Applicants from within the Jurisdiction</p>	<p>Other Common Law Provinces</p>	<p>Quebec</p>	<p>Foreign Jurisdictions</p>
<p>Alberta (The Legal Profession Act, R.S.A., 1967, c.203, as amended, and rules).</p>	<p>-Has law degree from an Alberta law faculty or its equivalent as assessed by University Co-ordinating Council (U.C.C.).</p> <p>-Articles for 1 year, and takes concurrent 2 week Bar admission course and passes exams.</p> <p>-If has non-Alberta law degree, may be required by U.C.C. to pass special exams in provincial law (e.g. exams in Alberta Land Titles System).</p>	<p>-If in active practice for 3 of 5 years immediately preceding application in another province, must pass Bar exams (not take course).</p> <p>-If in active practice in another province for less time than above, will be required to article -- up to 1 year, but usually not more than 6 months -- and pass Bar exam (but not take course).</p> <p>-Could be required to take extra exams if has a non-Alberta law degree.</p>	<p>-Active practice for 3 of 5 years, immediately preceding application, in Bars of England, Scotland, N. Ireland, Ireland, New Zealand and Australia.</p> <p>-Passes Bar exams (and could be required to take extra exams if has a non-Alberta law degree).</p> <p>-Completes articles on Alberta -- usually for 1 year.</p>
<p>Saskatchewan (Only information available was statute, The Legal Profession Act, R.S.S., 1965, c.301, as amended).</p>	<p>-Law degree from University of Saskatchewan, or benchers-approved equivalent.</p> <p>-Complete articles for 1 year, which includes 1 month enrolled in Bar admission course, and pass Bar admission exams.</p>	<p>-Equivalent of law degree from University of Saskatchewan.</p> <p>-Call to Bar in other province (no minimum time).</p>	<p>-In active practice in country of British Commonwealth for period immediately preceding application of:</p> <ul style="list-style-type: none"> <li>- 5 years if barrister</li> <li>- 3 years if solicitor</li> </ul> <p>-Equivalent of law degree from U. of Saskatchewan.</p> <p>-May be required to article or take Bar exams if such requirements made of Sask. solicitor in home jurisdiction.</p> <p>-Comply with other rules of Society, or with requirements made in particular cases by benchers.</p> <p>-If law student in Commonwealth and has qualifications equivalent to law graduate of U. of Sask., benchers may allow admission as student</p>

	What Body Evaluates Qualifications?	TRANSFER	RULES	Appeal Rights from Decision Re Admission	Occasional Practice
<u>Alberta</u>	<p>University Coordinating Council evaluates academic qualifications and sets exams; U.C.C. employs committee of academics for this purpose.</p> <p>Education Committee, made up of benchers, practitioners, makes other decisions re qualifications.</p>	<p>No.</p>	<p>No provision in legislation.</p>	<p>Yes - from Education Committee to benchers then to Court of Appeal.</p>	<p>Yes, if Canadian Citizen or British Subject and in practice in Canada for at least 3 years.</p>
<u>Saskatchewan</u>	<p>No information; Bar exam content under control of University of Saskatchewan, which appoints a Board of Examiners.</p>	<p>Benchers have power to make rules, allowing admission of anyone who is citizen or British subject, and who has been admitted to practice in another country or province.</p>	<p>No provision in legislation.</p>	<p>No.</p>	<p>No information.</p>



	TRANSFER	STANDARDS - FOR APPLICANTS REGISTERED IN:		
<p>Non-Transfer Applicants from within the Jurisdiction</p>	<p>Other Common Law Provinces</p>	<p>Quebec</p>	<p>Foreign Jurisdictions</p>	
<p>Manitoba</p> <p>(The Law Society Act, R.S.M., 1970, c. L100, as amended, and rules).</p>	<p>-Degree from Law Faculty at University of Manitoba or other approved Canadian law degree.</p> <p style="text-align: center;"><u>OR</u></p> <p>-Degree from foreign Law Faculty, if Law Society's Admissions Committee, "Based on applicant's practical experience, educational attainments or other qualifications" is of opinion that person should be admitted to Bar admission course</p> <p style="text-align: center;"><u>AND</u></p> <p>completion of comprehensive exam in common law.</p> <p>-Completion of Bar admissions course (11½ months of articles and course with exams, 9 months in duration and concurrent with articling.)</p>	<p>-In active practice of law for 3 out of 5 years, immediately preceding application.</p> <p>-Generally required to pass exam in Manitoba statutes and procedure (exempt if Manitoba solicitors would be exempt from similar requirement in home jurisdiction).</p> <p>-Must have common law degree, or pass common law exam prescribed and perhaps fulfill additional requirements prescribed by Admissions Committee.</p>	<p>-Same as for applicants from other provinces, except may have to pass common law exam or fulfill other requirements as prescribed by Admissions Committee.</p>	<p>-No special rules -- see rules for non-transfer applicants.</p>



	TRANSFER	RULES		
	Does Decision-making Body have discretion with respect to Acceptable Qualifications?	Are Transfer Candidates allowed a Hearing?	Appeal Rights from Decision Re Admission	Occasional Practice
<u>Manitoba</u>	<p>Admissions and Education Committee of Society evaluates academic and practical experience. Committee is made up of practitioner benchers, a lay bencher, 2 student benchers, and Dean of Law Faculty at University of Manitoba. Committee can recommend call with conditions only.</p>	<p>Yes, Committee can recommend admission if applicant has exceptional merit by reason of education and experience.</p>	<p>No provision in legislation.</p>	<p>Yes, to Court of Appeal.</p> <p>Yes, for members of other provincial Bars for specific appearance.</p>

TRANSFER	STANDARDS - FOR APPLICANTS REGISTERED IN:			
Non-Transfer Applicants from within the Jurisdiction	Other Common Law Provinces	Quebec	Foreign Jurisdictions	
<p><u>Quebec</u> (Bar Act, S.Q., 1973, c.44, as amended, and regulations, and <u>The Professional Code</u>, S.Q., 1973, c.43, as amended).</p>	<p>-Have approved law degree or equivalent recognized by General Council of Bureau.</p> <p>-Complete professional training (6 months of articling and practical instruction offered by Bureau) and pass Bar exams.</p>	<p>-Active practice of law in Canada for 3 consecutive years, and is in practice at time of application.</p> <p>-Pass exam on P.Q. statutes and procedure</p> <p>-OR, upon petition to Executive Committee, a solicitor from another province may be granted a restricted certificate to act only for particular employer in specific circumstances.</p> <p>-Must demonstrate working knowledge of French except if applying for restricted permit.</p>	<p>-Same as from other provinces; can be required to make up courses if law education not equivalent to an approved common law degree.</p>	<p>-No special rules.</p>
<p><u>New Brunswick</u> (<u>Barristers Act</u>, S.N.B., 1973, c.80, and regulations).</p>	<p>-Have approved common law degree or equivalent as recognized by Council.</p> <p>-Complete articling (10 months), and Bar admission course and examinations (7 weeks).</p>	<p>-Have approved common law degree or equivalent as recognized by Council.</p> <p>-Active practice in one or more provinces or territories for 3 out of 5 years immediately preceding application,</p> <p style="text-align: center;"><u>OR</u></p> <p>if not this experience, then 6 months articling.</p>	<p>-For those admitted in the U.K., Eire, Australia, New Zealand and U.S.A.:  -Same as for common law provinces.  -Pass designated exams in Canadian constitution and statutes.</p>	

	What Body Evaluates Qualifications?	Does Decision-making Body have discretion with respect to Acceptable Qualifications?	TRANSFER RULES Are Transfer Candidates allowed a Hearing?	Appeal Rights from Decision Re Admission	Occasional Practice
<u>Quebec</u>	Examining Committee established by General Council of Bureau, which evaluates academic and experience requirements. Its membership is drawn from Board of Examiners, which is composed of practitioners and academics.	No.	Is possibility, but right to Hearing not guaranteed.	Can appeal any decision except one based on results of exam to Council of Revision, and then to Court.	Yes, but only for members of other provincial Bars where there is reciprocity and in areas of federal jurisdiction.
<u>New Brunswick</u>	Admissions Committee of Society, composed of 3 senior benchers, practitioners, a law school faculty member and the Society Secretary.	Council of Society has wide discretion with respect to equivalency of educational qualifications.	No provision in legislation, although Council can order a hearing into application if further evidence required.	No.	Yes, for members of other provincial Bars for specific proceedings.

	TRANSFER	STANDARDS - FOR APPLICANTS REGISTERED IN:		
<p><u>Nova Scotia</u></p> <p>(Barristers and Solicitors Act, R.S.N.S., 1967, c.18, and regulations).</p>	<p>Non-Transfer Applicants from within the Jurisdiction</p> <p>-Has law degree from Dalhousie or one approved by Qualifications Committee as equivalent (if equivalent, must pass exam in Nova Scotia statutes and procedure).</p> <p>-Pass prescribed exams.</p> <p>-Article for 12 months (or 9 months, if 6 week Bar admission course taken); some articling can be done in U.K. or U.S.A. or other province.</p>	<p>Other Common Law Provinces</p> <p>U-Active practice for 3 out of 5 years, immediately preceding application.</p> <p>-Passed exam in Nova Scotia statutes and procedure.</p> <p>-If not sufficient practice requirement, then:</p> <p>-Articled 6 months,</p> <p>-Passed Bar admission course or equivalent,</p> <p>-Have common law degree from approved Canadian faculty.</p>	<p>Quebec</p> <p>-Same as for common law provinces, but must also:</p> <p>-Pass comprehensive common law exam.</p> <p>-If less than 3 out of 5 years experience, but no common law degree, must complete 1 year conversion course.</p>	<p>Foreign Jurisdictions</p> <p>-If in active practice 3 out of 5 years immediately preceding application in jurisdiction with legal practice and custom similar to Nova Scotia, must:</p> <p>-Have education qualifications equal to graduate of approved Canadian law school.</p> <p>-Applicant who is solicitor in England, N. Ireland, Eire, OR barrister and solicitor in Australia or New Zealand, OR law agent in Scotland, OR barrister in England, N. Ireland or Eire, with 5 years experience and who passes common law exams is deemed to have equal qualifications.</p> <p>-Pass exams in Nova Scotia statutes and procedure.</p> <p>-Completes Bar admission course, or equivalent.</p> <p>-If not sufficient period of active practice, must article up to 9 months.</p>
<p><u>Prince Edward Island</u></p>	<p>Not sufficiently detailed information available from Act, and no response to inquiries.</p>			

TRANSFER STANDARDS - FOR APPLICANTS REGISTERED IN:				
Non-Transfer Applicants from within the Jurisdiction	Other Common Law Provinces	Quebec	Foreign Jurisdictions	
<p><u>Newfoundland</u> (Law Society Act, R.S.N., 1970, c.201).</p> <p>-Law degree from Canadian, British or Commonwealth University or other acceptable degree.</p> <p>-Article 9 months and take 1 week Bar admission course, and pass exams in provincial statutes and procedure.</p>	<p>-No additional substantive requirement.</p>	<p>-Same as common law provinces.</p>	<p>-If member of Bar or solicitor in England, Scotland, N. Ireland, or part of Commonwealth, and have academic standing acceptable to Society, must:</p> <p>-Pass exams in provincial statutes and procedure.</p> <p>-If not in active practice for 3 years or more, must article for 6 months.</p> <p>-If have law degree from England or Commonwealth country, (but not member of aforementioned bars) must:</p> <p>- Article 9 months.</p> <p>- Pass exams in provincial statutes and procedure.</p>	

	<u>TRANSFER RULES</u>				
	What Body Evaluates Qualifications?	Does Decision-making Body have discretion with respect to Acceptable Qualifications?	Are Transfer Candidates allowed a Hearing?	Appeal Rights from Decision Re Admission	
<u>Nova Scotia</u>	Qualifications Committee of Society, composed of 7 practitioners.	No.	None provided in legislation.	No.	Yes, open to member of another provincial Bar, but must have Nova Scotia lawyer as solicitor of record.
<u>Prince Edward Island</u>	No information.	No information.	None provided in legislation.	No.	No information.
<u>Newfoundland</u>	No information.	No.	No provision in legislation.	No.	No information.



## VI. ARCHITECTURE AND TRANSFER APPLICANTS

### A. Current Regulations Governing Admission to Practice for Non-Transfer

#### Candidates<sup>52</sup>

To be legally authorized to practise architecture in Ontario, an individual must be a member of the Ontario Association of Architects (O.A.A.). The regulations governing admission to the O.A.A. are made by the association's Registration Board, subject to the general requirements of the Act.

The Registration Board's requirements for admission to the O.A.A. are summarized in the document "Educational Requirements for Candidates Seeking Registration as Architects in Ontario":

(a) An academic component. Completion of a five-year course in architecture which conforms to the minimum syllabus of the Registration Board and which is approved by the Board.

(b) A work experience component. Completion of post-graduate architectural experience of three years under the direction of a Canadian architect. A detailed report of this experience must be made to the Registration Board.

(c) The Registration Course component. Completion of two groups of Registration Board courses. Group I, which can be taken after six months experience, is concerned with legal aspects of architecture. Group II, which can be taken after eighteen months experience, is concerned with business aspects of architecture, such as contract administration. Each course is one week in length.

The Registration Board not only enacts regulations governing admission, but also applies them in assessing candidates' academic and work experience qualifications and granting exemptions from admission requirements. The Board is composed of three academic members from faculties of approved

Ontario architecture courses, and six members who are practising architects.

Regulations under the Act allow the Registration Board to admit an applicant to the Registration Board courses and exams who does not possess the usual required academic qualifications on the basis of work experience and demonstrated ability. This would allow admission of "exceptional" applicants who did not meet the normal requirements. The provision has seldom been invoked by the Board to admit an applicant.

No provision is made in the Act or regulations for an applicant -- whether a transfer or local candidate -- to have the right to a hearing before rejection of his academic qualifications. The Board may of its own motion, if it feels information about a foreign degree is incomplete, refer the candidate to the Committee of Examiners for an interview, but this is not a hearing which an applicant may demand as of right.

Neither is an appeal right provided for a candidate who is refused registration or who disputes any assessment made of his degree, experience and exams passed and any requirements the Board may make of him as a condition of progress within the Registration Board programme.

#### 1. Approved courses in architecture

Before 1960, all provincial associations recognized schools on an ad hoc basis, and there was no formal accreditation process. In 1960 the Royal Architectural Institute of Canada, (R.A.I.C.) a voluntary association of provincial architectural associations, developed common minimum academic standards which were informally accepted by the provincial associations and formed a visiting board which investigated the standards at each school and reported back to the R.A.I.C. The R.A.I.C.'s advice with respect to recognition of programmes was accepted by the associations, including the O.A.A. The O.A.A., however, still has its own minimum performance criteria which each

Ontario school must insure its students are exposed to, although schools have a fair degree of latitude in deciding how to incorporate these minimum criteria into an overall syllabus. At present the O.A.A. has no accreditation board, but plans to form one to deal with decisions which must be made at the end of provisional recognition given to the Carleton and Waterloo programmes approaches.

The O.A.A.'s Registration Board has the function of approving courses of architecture education and has approved degrees from all Ontario universities (with the exception of Ryerson) and from all Canadian universities in other provinces which offer degrees. No degrees from foreign institutions are automatically accepted by the Board as fulfilling its academic requirements without a review of the individual applicant's credentials.

## 2. Alternative to the academic component

The Board's regulations allow the Board to accept in fulfillment of its academic requirements "experience" qualifications which demonstrate ability equivalent to that of someone who has completed an approved five year course in architecture. This route has fallen into disuse since the late 1950's, but interest in it has been revived because of the problems presented by experienced architectural technologists or technicians employed by registered architects who demonstrate high capabilities but who are precluded from becoming legally recognized as architects because they have no university degree.

A viable alternative qualification system for mature candidates with no university degree but substantial experience has been developed by the R.A.I.C. and is in use already in six other provinces, and the O.A.A. is committed to this plan in principle. The R.A.I.C. has developed a detailed minimum syllabus setting out required areas of study and examinations based

on this syllabus, and will administer the exams to these mature candidates. Attendance at university courses and completion of a university degree is not required. Candidates who pass these exams are recognized as academically qualified by their provincial associations and receive "academic certification" from the R.A.I.C. It is expected that such candidates will be employed in an architect's office and can acquire the necessary work experience for registration while they are in the process of studying for and writing the R.A.I.C. exams.

### 3. Work experience

Of the three years work experience required, up to one year's credit may be given for experience gained after completion of the third year of a recognized degree programme. Experience outside Canada or in post-graduate work may also be acceptable as work experience, and up to eighteen months credit may be allowed for such work experience.

All work experience must be recorded in standardized weekly reporting sheets by the applicant and checked and approved by his principal/supervisor at the end of each quarter. At the end of the experience period a total experience summary is also prepared. The O.A.A. sets standards for required experience, standards with respect to type of project (a minimum of three different types required), type of work (mandatory exposure to eight different job functions), and opportunity for contacts with the different actors with whom an architect will be required to work (e.g., clients, engineers, public inspectors), and for work with various levels of responsibility, particularly work involving contract administration.

### 4. Registration Board Course

The Registration Board Course is a post-graduate academic

component which aims to coordinate the theory learned in a degree programme with the practical experience gained in work after graduation. A detailed syllabus and sample exams are available to candidates. Those whose native language is not English will be required to demonstrate proficiency in English to be admitted to the course. Exemptions from all or part of the course can be granted on the basis of work experience. Those who fail will be required to repeat the Group or Groups failed before registration.

The Council of Ontario Universities Report on The Study of Architecture Education suggested that the Registration Board Course, besides being cumbersome for the Board to operate, had contradictory objectives -- that there was "some confusion between legal and professional practice requirements which cannot be gained elsewhere and services which should be documented by experience or certification (and therefore need not be part of the course)".<sup>53</sup> Various options for change were suggested, including retention of a mandatory course in professional practice (legal aspects) by the Board, and shifting of the building services course to a community college as an optional course. Knowledge of building service would then be demonstrated by exam, experience or passing the optional course. Alternatively, both courses could be transferred to independent educational institutions, but the Registration Board could monitor their content or set exams.

#### B. Transfers from Other Provinces

Transfers from other provincial and Commonwealth associations are authorized by section 6 of The Architects Act, which allows membership or a temporary licence to be given to a British subject domiciled within the Commonwealth who is a member of a Commonwealth association of architects recognized by the Board. This is further qualified by section 14 of the regulations, which allows the Board discretion to grant membership to such an



applicant who has passed required exams or who is exempted from them because his experience and qualifications are equivalent to those of someone who has completed an approved degree and passed the Registration Board courses.

In practice this route to qualification is only applied by the O.A.A. with respect to transfers from other provinces; the O.A.A. does not formally "recognize" any Commonwealth associations for the purposes of section 6 other than other provincial associations, and handles all foreign transfers on a case-by-case basis.

As far as provincial transfer applicants are concerned, in practice the Board policy requires membership in the other provincial association for at least three years to ensure automatic transfer. If a candidate has experience of less than three years after registration in his home province, then his record is reviewed individually to see if he merits exemption from the exams or requires further work experience. Most candidates will have graduated from a recognized school of architecture, but experience and Registration Board exam requirements vary across Canada. If an applicant lacks three years work experience he will be required to complete the deficiency in Canada and may also be required to pass Registration Board exams - usually Group I.

The Board may also grant a temporary licence to a non-resident of Ontario who is a member of another Commonwealth association of architects, identifies the specific project in Ontario he will work on, and agrees to collaborate with an O.A.A. member domiciled in Ontario in this project.

#### C. Transfers From Other Countries

Transfers from other countries are usually handled by the O.A.A. within the rules applicable to domestic applicants, with appropriate exemptions being granted on a case-by-case basis after evaluation of a candidate's qualifications and experience.



1. Academic qualifications

A candidate without an approved Canadian architectural degree must have his degree, exams taken and work experience evaluated by the Board, which after assessing his qualifications may:

(a) accept his academic qualifications and advise him of the amount of Canadian experience he requires and the parts of the Registration course he must complete;

(b) reject his qualifications (in this case there is no appeal, and the applicant's only recourse is to obtain an approved Canadian degree, perhaps being given some advanced standing for his foreign degree by a Canadian university);

(c) if information provided is insufficient for an adequate evaluation, refer the case to the Board's Committee of Examiners. The Committee will interview the candidate, and may require further information with respect to education and experience and examples of work completed.

The Committee can then accept or reject a candidate's academic qualifications, or advise him that they are accepted on condition of completion of specified university subjects and passing Board exams in these subjects.

In practice, if the candidate received his degree from a school known to Board members or approved by the Commonwealth Board of Architectural Education (C.B.A.E.) the Board's scrutiny is limited to insuring that the course of study followed is complete (i.e., includes subjects in its minimum performance criteria) and is not concerned with checking on the standards required to complete this course of study.

Candidates who are from schools unknown to the Board receive very careful scrutiny to ensure that their studies are equivalent in scope and standard to those required for an approved Canadian degree. The candidate will have to submit detailed information on the syllabus from his degree

programme and show examples of design ability; he may even be required to complete assignments set by the Committee to demonstrate knowledge and ability.

After a candidate is accepted by the Board, his academic qualifications are no longer an issue. He receives national certification of these qualifications, since the O.A.A. in making its own assessment is acting as an agent of the R.A.I.C. (as are most other provincial associations) in an effort to create a national academic standard and accepted method of assessment which will increase mobility across the country. This R.A.I.C. national "certification" system is voluntary and applies only to academic qualifications. Suggestions have been made that a national certification board should have authority to evaluate academic and work experience and licence applicants, with the role of provincial registration boards limited to the assessment and monitoring of professional practice knowledge peculiar to the province.<sup>54</sup> Implementation of this suggestion would be difficult because of doubtful constitutional authority.

## 2. Commonwealth Board of Architectural Education (C.B.A.E.)

The C.B.A.E. is a voluntary association of architectural educational institutions within the Commonwealth, founded in 1962 with the object of establishing an accreditation system for architecture schools within the Commonwealth which would allow mutual recognition among members. Although the O.A.A. considers C.B.A.E. recognition of a programme very seriously when evaluating a graduate transfer applicant, it does not accept C.B.A.E. recognition as indicating automatic equivalence with an approved five year Canadian architecture degree. The C.B.A.E. when first formed accepted for accreditation all programmes then recognized by the Royal Institute of British Architects (R.I.B.A.) and all other Commonwealth programmes which met its minimum standards; compliance with standards was investigated by a C.B.A.E. visitation

team. Such teams review accredited schools every five years to ensure maintenance of standards and investigate new schools. A team will usually include local academics and practitioners and may ask a school to prepare informational material for its visit.

The C.B.A.E. recommends that any programme recognized by it still be supplemented with a local exam in Professional Practice and Practical Experience.

C.B.A.E. standards for recognition are general rather than specific in terms of course content and required course hours.<sup>55</sup> The C.B.A.E. states that recognition is determined on the basis of information provided by a school and acquired during investigation by a C.B.A.E. Visiting Panel. Assessment is based on the following principles outlined by the C.B.A.E. Statement on Objectives and Standards:

"(i) The School should provide a clear statement on the objectives and philosophy of the course and on the framework of subjects and activities by which these objectives are met.

(ii) The School should be in or associated with an institution of high academic level, preferably of university standard which can provide the wide range of studies required for the education and training of an architect.

(iii) The organization of the School and institution should allow for flexibility in the development of the course to meet the changing needs of architectural education.

(iv) The School should have the necessary facilities and financial support to achieve the physical context in which it can attain its objectives.

(v) There should be evidence that the School is involved in understanding the environmental problems of its community and that it is endeavouring to make contributions to their solution through the study of real problems.

(vi) The staff should be of a high level of academic attainment and teaching ability and provide the necessary range of specialist skills and experience. A School should encourage continuing research by staff or involvement in appropriate practice.

(vii) A School should in general have an entrance level which should not be below university entry or its equivalent. The aim should be to ensure that the level of entry is at least as high as that for other professions.

(viii) Students should have the opportunity to make positive contributions to the manner in which the school functions and there should be evidence of the method of ensuring good student/staff contact, not only in the teaching but in the general administration and in the informal activities of the school.

(ix) The School should be concerned with the development of each student's abilities so that he understands, shares, and contributes to a body of knowledge in the field of environmental design, being aware of other areas of knowledge in relation to this field. It should also be concerned with the development of the student's capacity to apply this knowledge creatively and effectively to the environmental problems of the communities to which he may belong.

(x) Within this context, students should show evidence of ability to understand the needs of those who commission and use the elements of the built environment; to analyse problems and synthesize and appraise their solution as part of the design process. They should be able to produce appropriate and imaginative solutions which are technologically sound, environmentally acceptable and economically feasible in the context of the total environment. They should understand the legal, practice, and managerial aspects of putting these into effect and be capable of communicating ideas, proposals, and instructions to others."<sup>56</sup>

### 3. Work experience and registration board courses

As mentioned before, credit for up to eighteen of the required thirty-six months of work experience can be given for foreign work or post-graduate study but a candidate's overall work experience must meet the Board's standards with respect to exposure to different types of jobs and types of projects. The Board has not indicated guidelines as to what factors it employs in assessing foreign work experience.

Although a foreign transfer candidate is theoretically able to be exempted from Registration Board courses and exams based on work experience, since the courses concentrate mostly on matters of peculiar local knowledge or practice, his foreign work experience is not likely to merit an exemption. Since both "groups" of Registration Board courses are only about one week in length, they do not present a serious barrier to entry.

Temporary licences are available to members of other Commonwealth architectural associations on the same basis as they are to members of other provincial associations.

### D. Comparative Transfer Regulations (See Chart, p.104)<sup>57</sup>

#### 1. Other Canadian provinces

Other provinces have general admission to practice requirements quite similar to the O.A.A.: approved Canadian architecture degree and post-graduate work experience. Many provinces also require completion of a professional practice programme similar to Ontario's Registration Board course and exams. Most other provinces, however, require only two years of work experience rather than the three required in Ontario. As previously mentioned, six provincial associations have also opened up an alternative route to academic qualification for experienced applicants without a degree by relying



on the R.A.I.C. minimum syllabus and exams.

With respect to transfer of architects registered with other provincial associations, only B.C. requires (as Ontario does) any minimum period of post-registration practice for automatic acceptance. (See Chart, p.104) Nova Scotia grants automatic admission to members of other associations without further requirement, and Alberta allows such applicants to be admitted upon fulfilling the additional requirement of two years post-degree work experience (one year of which must occur in Canada). Both Saskatchewan and Quebec admit provincial transferees on the basis of reciprocal agreements with other associations. Quebec has agreements with the Ontario and Manitoba associations under which members of those associations may be admitted (if they have a degree equivalent to an approved Quebec diploma and two years post-degree work experience) without having to write admission exams. Saskatchewan has an agreement with Manitoba providing for automatic admission of Association members from that province, thus exempting them from the one year residence requirement and architectural jurisprudence exam required of other provincial transferees.

Manitoba and Newfoundland have no special provisions for transferees from other provinces and simply apply their general admission rules; this generally means that members of other associations are accepted without further requirement (except, since Newfoundland requires three years of post-degree experience, transferees there sometimes have to make up one year). No other provinces except B.C. and Quebec and in some cases Saskatchewan require provincial transferees to write a professional practice exam. British Columbia offers a pre-screening oral exam to such applicants which can lead to their exemption from the Registration Board Course.

Even if provincial transfer candidates do not qualify under the special rules for transfer, they can usually qualify under the general rules of admission since most provinces only require applicants to possess a nationally



recognized degree and have work experience done under the direction of a registered Canadian architect. In most cases, applicants will only have to pass local professional practice exams in order to be licensed.

With respect to the admission of transfer applicants from foreign countries, many provinces rely upon the R.A.I.C.'s National Certification Board to assess the academic qualifications of foreign applicants based on its minimum syllabus. Thus, these provinces will accept a degree from a nationally-accredited school in the U.S. (e.g., applicant is a graduate of a programme approved by the National Architectural Accrediting Board, NAAB), or an English member belonging to an association which is a member of the Commonwealth Association of Architects (CAA). If the applicant does not have such a degree, he is often given the option of obtaining an R.A.I.C. certificate based on an assessment of his programme against the R.A.I.C. minimum syllabus. Quebec requires a diploma approved by the licensing body in the home jurisdiction or approved by national accrediting bodies in the U.S. or U.K. and also scrutinizes the degree to ensure it includes certain subjects and involves a minimum number of course hours. If an applicant's degree is deficient by the second standard, then he can be assessed to see if his work experience or other training makes up the deficiencies, but a minimum of ten years work experience is required for a "training equivalence" to be granted for academic requirements.

Foreign transfer applicants are in most provinces also required to complete a reduced work experience requirement in Canada (e.g., one instead of two years) or may be required to meet the full provincial work experience requirement but be given partial credit for their foreign experience. In B.C. a foreign transfer applicant from an approved school in England or the U.S. is not required to complete further work experience, and in Alberta such an applicant has the option (as all applicants have) of completing the University Coordinating Council's practice exams instead of fulfilling work experience requirements. Quebec requires all work experience to be completed within the province, and Newfoundland requires that it be completed within Canada. Many provinces which accept the R.A.I.C.'s assessment of academic qualifications of foreign transfer applicants also judge these applicants' work experience on

the basis of R.A.I.C. standards and require completion of the Institute's log book and verification by the principal.

Most other provinces which have professional practice exams (administered by the association itself or by a university) require foreign transfer applicants to complete them. British Columbia allows candidates from approved U.S. or English universities to take the pre-screening oral exam which can provide exemption from its registration board course.

There was not sufficient information received from other provincial associations to determine if any informal or formal hearing is granted to an applicant before refusal of registration or to a transfer applicant before his academic degree or work experience are given an unfavourable evaluation. No appeal rights are given by any association except Manitoba's. In Manitoba all applicants, including transfer applicants, may appeal any condition for membership imposed on them by the Association's Council to the Senate of the University of Manitoba.

## 2. United Kingdom

Architects in the U.K. who wish to represent themselves to the public and clients as "architects" must be registered by the Architects Registration Council of the United Kingdom (ARCUK). Although this designation is reserved to those who are registered, there is no legislative requirement that those who perform architectural work be registered, as there is in Ontario. Consequently, the economic effects on a transfer candidate unable to qualify for ARCUK registration in the U.K. are not as drastic as they are for a transfer applicant in similar circumstances in Ontario.

Foreign transfer applicants can be registered if they have obtained a degree recognized by ARCUK and pass a professional practice and practical experience examination (written or oral). The list of approved degrees includes several from other parts of the Commonwealth and Switzerland (but not from Canada); and degrees in the U.S. which lead to a NCARB

certificate.

All other foreign transfer applicants must have their qualifications, and particularly the qualifying exams they wrote, assessed by ARCUK. An applicant is asked to give ARCUK's Admissions Committee extensive information: registration process and standards in the home jurisdiction; organization of the architectural profession and relationship to engineers; nature of educational institute from which diploma was obtained, its curriculum and syllabus, length of course, whether full or part-time; whether applicant's degree entitles holder to practise in home jurisdiction; other countries which have accepted the qualification as equivalent to their own; other sources of information about the educational and registration process in the home jurisdiction; normal age of entry into the profession; professional experience, before and after registration; knowledge of English.

Based on this information, the Admissions Committee decides whether an applicant can proceed in the registration process, and, if so, whether he will be exempted from a comprehensive written final examination in architecture. ARCUK officials say that the Committee will rarely accept an application from a candidate who does not have:

(a) academic training of four to five years;

(b) two years professional experience (one of which must be post-registration), including eighteen months experience in a country where practice procedures are directly comparable to those of the U.K. Exemption from the final exam requires that the exam written in the applicant's home jurisdiction be of similar standing to those approved by ARCUK or that he have had extensive practical experience in a responsible position.

All applicants are required to show adequate knowledge of professional practice and practical experience in the U.K., by either oral interview or written exam. The oral interview is conducted by two senior architects

appointed by ARCUK. The purpose of the interview is to ensure that the applicant has a proper understanding of the distinctive features of work in the U.K. and how they differ from those in his own country. The information provided for candidates sets out in detail what the applicant may be questioned about and what information he is expected to have about practice in the U.K.

In exceptional cases an applicant may be admitted to registration by petition of the members and direct vote of the ARCUK Council. Written notice of the ARCUK Council's final decision on any application is given to the applicant, but no hearing or appeal is granted.

#### VII. ARCHITECTURE: COMMENTS AND RECOMMENDATIONS ON ONTARIO'S TRANSFER REGULATIONS

The R.A.I.C. provides the structure for a nationally uniform standard for transfer regulations for inter-provincial and foreign transfer applicants. The O.A.A. is not yet fully integrated into the R.A.I.C. structure because of some doubts that its academic standards are equivalent in all respects to the O.A.A.'s, but the O.A.A. has made a philosophical commitment to adopt the R.A.I.C. minimum syllabus with some amendments. There are no barriers to members of other provincial associations wishing to transfer to Ontario if they have had three years of post-registration experience; it is submitted below that the three-year post-registration experience requirement is an unnecessary barrier to licensing in Ontario of the members of other provincial associations. With respect to foreign transfer applicants, it will be submitted that the O.A.A. in its evaluation of the academic qualifications of such applicants should attempt to extend its list of foreign schools given qualified approval beyond that offered by the C.B.A.E. as other provincial associations have done, and that there should be more flexibility in the minimum period of Canadian work experience required of such applicants.

No statistics exist as to the number of unsuccessful transfer applicants to the O.A.A. from other provinces or countries. As in law and many other professions, most prospective applicants who would be unsuccessful are probably discouraged from applying after making tentative inquiries. Association statistics do show a small number of inter-provincial transferees each year (averaging about fifteen to twenty);<sup>58</sup> almost all these transferees had at least three years post-registration experience in their home province before application. The number of foreign transfer applicants is growing. Association statistics indicate that in the five year period from 1966 to 1970, sixty-three such applicants were admitted, but in the next five-year period, 136 such applicants were admitted.<sup>59</sup>

#### A. Inter-provincial Transfer Regulations

##### 1. Minimum period of post-registration experience

Inter-provincial transfer applicants with three years of post-registration experience in their home provinces are automatically admitted to the O.A.A., while those with less than this period of experience are required to complete work experience of up to three years and often to complete Group I of the Registration Board course.

The O.A.A. accepts the academic qualifications of any transfer applicant registered in another province, so is apparently satisfied with the basic architecture training of such applicants. The purpose of its inter-provincial transfer regulations is to insure that such applicants have knowledge of practice conditions which may be unique to Ontario. Three years of post-registration experience in another province does not insure knowledge of these unique conditions. Furthermore, domestic applicants are licensed after three years experience subsequent to the taking of an architecture degree, and thus



transfer applicants are required under present regulations to have more work experience than domestic applicants. There seems to be no justification for this. Therefore, it is submitted that the distinction between provincial transfer applicants with three years post-registration experience and those with less should be abolished.

## 2. Experience requirement

Provincial transfer applicants should be required to have work experience of a period and standard equal to that required of domestic applicants.

Therefore, if a transfer applicant has post-degree experience of less than three years (which could sometimes be the case, as many provinces require only two years post-degree work experience for registration), he should be required to complete experience up to three years. Experience both before and after registration in his home province should be acceptable.

The O.A.A. apparently does not require any report from provincial transfer applicants on their work experience to insure that it meets the standards applied to domestic applicants with respect to exposure to types of work, types of projects, and levels of responsibility. All provincial transfer applicants, regardless of their years of experience, should be required to meet these standards and the O.A.A. should require detailed reports from them which follow the same form used by domestic applicants to assess their experience. To insure that this practical knowledge is up-to-date, it is suggested that the required work experience be completed within five years of the date of the transfer application. If work experience in a particular area was completed, for example, fifteen years ago, then what was learned at that time may have become outdated or the applicant may have become "stale".

If this latter suggestion is adopted, then transfer applicants who



have practiced for many years but specialized in a particular area in recent years may find themselves faced with the necessity of completing three years of general work experience requirements before a transfer is accomplished. It is possible that such applicants have continued, through reading and post-graduate courses, to keep their general knowledge up-to-date even though this is not reflected in their specialized practice. It is suggested that applicants with more than five years of post-degree experience be allowed to demonstrate their practical knowledge by passing a Practice examination. Such an examination is now offered by Alberta's University Coordinating Council as an alternative to fulfillment of the work experience requirements in that province.<sup>60</sup>

Applicants of lengthy experience who do find they must re-establish their experience qualifications and do not choose the alternative exam route will undoubtedly suffer serious economic dislocation in switching from an established practice in another province to student status in Ontario. This dislocation could be mitigated and the public still protected if such applicants were given conditional licences and allowed to practise under the supervision and in the employ of an O.A.A. member; the licence would remain conditional until work experience requirements were fulfilled and Group I of the Registration Board course in the legal aspects of practice in Ontario (or its exam) completed. (If matters of management and contract administration vary significantly from province to province, then Group II of the course should be required also.) This provision would not be unfair to domestic applicants, since it would only be an option for transfer applicants who already had five years or more of post-degree experience. The O.A.A. now employs a similar procedure in granting temporary licences to architects who are members of other Commonwealth or provincial associations to practice on particular projects, conditional upon collaboration with an O.A.A. member.

### 3. Registration Board course

It is submitted that all provincial transfer applicants should

demonstrate knowledge of Ontario's law affecting the practice of architecture (and not just those applicants with less than three years post-registration experience, as is currently the case).

The Registration Board course in this subject is given only once each year, and lasts about one week. This could cause long delays for transfer applicants who have only to complete the course before being licensed. It is suggested that the course be offered more often, or that transfer applicants be allowed to write the course exams (without enrollment in the course) several times a year and be provided with course materials to prepare for the exam.

#### 4. Temporary licences for occasional practice

It is submitted that the present regulation requiring agreement to collaborate with an O.A.A. member in order to obtain a temporary licence for a particular project is an unjustifiable restriction in some cases.

If an architect licensed in another province is requested by a client in Ontario to work on a particular project, then he should be able to obtain a licence for this project if he has qualifications which would admit him immediately to practise in Ontario if he were domiciled in Ontario and a British subject. Most architects in Canada would meet the academic and work experience requirements, but would have to pass the Registration Board exam covering the legal aspects of practice in Ontario before obtaining an unconditional temporary licence. Only where this exam had not been passed should the out-of-province architect be required to collaborate with an O.A.A. member as a condition of receiving a temporary licence. The O.A.A. member could insure compliance of the work with provincial law.

There seems to be no good reason to continue the present requirement that the collaborating O.A.A. member be currently domiciled in Ontario. If the

Association has concerns that the member have qualifications over those required for membership to insure that he can competently supervise the non-resident architect, then additional terms can be imposed on the issue of a temporary licence which bear directly on the experience of the proposed O.A.A. collaborator.

5. Summary of recommendations with respect to inter-provincial transfer regulations

1. The distinction between applicants with three years post-registration experience and those with less should be abolished.
2. Applicants should be required to have post-architecture degree experience of at least three years.
3. This experience should meet the same standards with respect to range and level of experience as those applied to domestic applicants, and should be completed within five years before the date of application for transfer. Applicants with more than five years post-degree experience should be offered the option of passing practice exams as an alternative to completion of any additional work experience.
4. All transfer applicants should be required to take the Group I Registration Board course in the legal aspects of architectural practice in Ontario, or, alternatively, to pass the exams in that course.
5. A temporary licence without condition applicable to a particular project should be granted to architects registered in other provinces who would, except for domicile and citizenship requirements, be qualified to be licensed in Ontario; those licensed in other provinces who do not meet these requirements should be able to obtain a temporary licence if they are working in collaboration with an O.A.A. member.

## B. Transfers from Foreign Countries

### 1. Use of R.A.I.C. National Qualifications Board

Although the minimum standards of the O.A.A. and the R.A.I.C. are not the same in every respect, there are many points of agreement. Many provincial associations now rely on the R.A.I.C. to assess academic qualifications of foreign applicants. The O.A.A. should utilize this national evaluative body in making at least the first stage of its evaluations of these qualifications. The cost of collecting and updating information about the licensing requirements and academic programmes in foreign jurisdictions can be greatly reduced if it is done cooperatively by all provincial associations through this national group.

If the O.A.A. in some areas applies standards more rigorous than those of the R.A.I.C., then it can do a supplementary evaluation of a foreign transfer applicant's credentials focusing on these points but employing information obtained by the R.A.I.C. R.A.I.C. certification should, however, satisfy the Ontario Association's standards on most subject areas.

The O.A.A. should continue to work towards a goal of integrating with the R.A.I.C.'s national certification system which would allow a uniform system of foreign transfer regulations. Ontario already accepts for automatic registration members of several provincial associations which adopted the R.A.I.C. standards for a minimum syllabus.

These provinces deem a wider range of foreign degrees acceptable than does Ontario. For example, graduates of N.A.A.B. approved schools in the U.S. will automatically be accepted by many provincial associations, but in Ontario, since such schools are not on the C.B.A.E. approved list, such applicants are subject to an intensive individual evaluation. The fact that such qualifications are accepted by so many provincial associations whose own academic standards for

licensing are equivalent to Ontario's suggests that it may be unnecessary for the O.A.A. to submit these qualifications to such rigorous scrutiny. Any extension which the O.A.A. can make of general rules providing full or partial recognition to those holding a general class of academic qualification will save both the O.A.A. and prospective transfer applicants time and effort.

## 2. Adoption of the R.A.I.C. minimum syllabus

The O.A.A. should continue work to make amendments to the R.A.I.C.'s minimum syllabus which would insure it is of an acceptable standard. When it is acceptable, then the R.A.I.C.'s alternative method of demonstrating academic qualifications (by examination instead of a university architecture degree) could be open to Ontario applicants for licensure. This alternative might be especially attractive to foreign transfer applicants who were trained in programmes not acceptable to the Registration Board, but who feel that they can through private study acquire the knowledge necessary to practise in Ontario more quickly than they could complete an approved degree in architecture in a Canadian university. This alternative method of demonstrating academic qualifications should, if offered, be open to both domestic applicants (e.g., individuals who have worked as an architectural technologist for many years) and transfer applicants.

## 3. Canadian work experience requirement

All foreign transfer applicants are required to complete at least eighteen of the required thirty-six months of practical experience in Canada. It is suggested that this minimum requirement creates unnecessary barriers to transfer of foreign applicants to Canada.

There are many jurisdictions in which practice conditions, except for the legal aspects of practice, are closely comparable to those in



Ontario -- for example, many states in the U.S.. Other jurisdictions recognize that such a similarity in conditions should be reflected in the period of work experience from which a foreign transfer applicant may be exempted. B.C. exempts from work experience requirements foreign applicants from the U.S. and the U.K., and the Architects Registration Council in the U.K. accepts as equivalent to experience in the U.K. experience in some other countries with comparable practice conditions.<sup>61</sup>

There should be no upper limit on the amount of credit that a foreign transfer applicant can obtain for work experience in another country, but eighteen months (one-half of the total required) work experience should be obtained in a jurisdiction where practice conditions are directly comparable to Ontario's. It would seem most efficient for information on general practice conditions in other jurisdictions to be collected by the R.A.I.C., and it would also be possible for at least a preliminary assessment of an individual applicant's work experience to be done at a national level. The O.A.A. could then review the applicant's experience record, and perhaps supplement this record with a personal interview, to insure that he met provincial standards or work experience.

Other suggestions made with respect to standards of work experience for inter-provincial transferees should also be applied to foreign transferees: the standard and scope of the experience and the form of reporting the experience should be the same as for domestic applicants, the relevant experience should be within five years of the date of the application, and a Practice examination or conditional licence as an employee-architect should be offered as an alternative route to those required to complete additional work experience who have at least five years post-degree experience.

4. Registration Board course

Foreign transfer applicants could generally be expected not to have any knowledge of the legal aspects of architectural practice in Ontario, and should be required to take Group I of the Registration Board course. Exemptions should continue to be granted from Group II course on building services based on an analysis of individual academic and work experience qualifications.

As is the case with inter-provincial transferees, there may be foreign transfer candidates who have adequate academic and work experience qualifications upon application, and have only to complete the Registration Board course or courses before licensing. As was suggested for inter-provincial transferees in this situation, the O.A.A. should offer the course more frequently or allow such applicants to take the course exams without enrolling in the course.

5. Temporary licences for occasional practice

The same regulations proposed in this area for architects from other provinces should apply to architects from other countries. Architects requested to work in Ontario by an Ontario client should be able to obtain a temporary licence for the project if they have qualifications which would allow immediate registration here, except for their lack of Ontario domicile and Canadian citizenship. Those with acceptable academic and experience qualifications who have not passed the Registration Board courses would have to practise in collaboration with an O.A.A. member.

It might be objected that removal of the requirement that non-resident licence-holders collaborate with O.A.A. members will leave Ontario architects open to unfair competition from architects from other countries where Ontario architects do not have the same privileges. If this is a concern,

it is one which is better handled through immigration law and regulations. Federal immigration law does not allow issue of a temporary work permit to a non-resident unless there is not a citizen or permanent resident available to fill the job. In any event, it is submitted that it is not the legitimate function of restrictive licensing legislation to provide barriers to entry geared to protect not the public but the monopoly of a professional group.

The current requirement that the holder of a temporary licence must be resident in Canada or the Commonwealth should be removed. Residence has no direct bearing on an applicant's qualifications; the fact that the U.K. and many other provinces recognize N.A.A.B. approved qualifications from the U.S. suggests that at least U.S. architects, if not other national groups, are unjustifiably prevented from obtaining temporary licences in Ontario under the current regulations.

6. Summary of recommendations with respect to foreign transfer regulations

1. The O.A.A. should use R.A.I.C. facilities to collect information about the academic and work experience qualifications of foreign transfer applicants and about the licensing requirements (as to the scope and standard of architectural education and required work experience) of a particular jurisdiction and architectural education within that jurisdiction. It should also rely on the R.A.I.C. assessment of an applicant's academic and work qualifications in all areas in which it agrees with R.A.I.C. standards, and then perform a supplementary evaluation of the candidate's academic and work experience record, using information provided by the R.A.I.C., to satisfy itself that the candidate meets O.A.A. standards in areas which differ from R.A.I.C. standards.

2. The O.A.A. should continue to work towards the goal of integrating with the R.A.I.C.'s national certification system and adoption of

the R.A.I.C.'s minimum syllabus and alternative qualification system, which would allow qualified applicants with extensive experience but insufficient university credits to be licensed.

3. In the interim period before the O.A.A. fully integrates with the R.A.I.C. system, it should review its standards for assessment of foreign academic qualifications, and particularly should obtain more information about architectural education in other countries than those represented in the C.A.A. with a view toward granting full or partial exemptions from academic requirements on a systematic (rather than individual case-by-case basis) to applicants with degrees from institutions approved in these jurisdictions, such as N.A.A.B. approved degrees in the U.S..

4. There should be no limit on the amount of credit a foreign transfer applicant can receive for foreign work experience. All other suggestions made with respect to the work experience requirement for inter-provincial transferees are applicable to foreign transferees.

5. All foreign transfer applicants should be required to take Group I of the Registration Board course, and, depending on experience and qualifications, the Group II course. If a foreign transfer applicant has met all requirements for registration except the completion of these courses, then he should be allowed to simply pass the exam in the course without enrollment if waiting for the course to be offered would entail a long delay.

6. Temporary licences should be available to architects registered in foreign countries on the same basis suggested for granting these licences to architects from other provinces. There should be no requirement that a foreign applicant for a temporary licence be resident in the Commonwealth.

### C. Considerations Common to All Transfers

#### 1. Hearing and appeal rights

Currently, the O.A.A.'s Committee of Examiners will interview a foreign transfer candidate when it has insufficient information about his academic qualifications to make a decision. This process, however, is an investigative one and not a hearing in which the applicant is given notice of a proposed decision and the reasons for it and allowed to appear before the Committee and present his case. Under present regulations no right of appeal for domestic or transfer candidates exists from a decision of the Committee of Examiners or the Registration Board as to the sufficiency of academic and work experience qualifications, the conditions imposed on an applicant to attain acceptable levels of architectural education or work experience, or the rejection of an application for registration. On the other hand, O.A.A. members who are threatened with suspension or expulsion because of alleged misconduct or incompetence have extensive hearing and appeal rights.

Rights to a fair hearing and an appeal from decisions denying requested academic or work experience exemptions or for rejection of an application for registration should be given both to domestic applicants and transfer applicants from other countries and provinces. However, it would be justifiable to extend these rights only to transfer applicants if there was reluctance to extend them to every domestic applicant, for reasons already referred to in this paper's section on the legal profession.

It is suggested that the hearing and appeal system adopted be that which is outlined in section III.11 of this paper. At present, Ontario licensees who face suspension or expulsion are only allowed a hearing by the Registration Board with an appeal to the Ontario Court of Appeal of the



Board's decision, and no intermediate appeal to a quasi-judicial tribunal as is suggested in this paper. Any new hearing and appeal rights granted prospective applicants should also be accorded members facing disciplinary action; appeal procedures should be similar for both groups.

Domestic Qualifications	Registered in Other Provinces	Foreign Jurisdiction
<p><u>Ontario</u></p> <p>-British Subject or intent to become become, and Ontario domicile.</p> <p>-5 year approved university course leading to B. Arch. from approved institution (or, if graduate of non-approved university or licensed to practice elsewhere, approval of courses by Board).</p> <p>-Completion of 3 years, post-graduate work experience.</p> <p>-Completion of Registration Board course and exams.</p>	<p>-If 3 years experience since registration acceptance probably automatic.</p> <p>-If less than 3 years, have to supplement experience up to 3 years by work experience in Ontario, and take required parts of Registration Board course (generally Part I).</p>	<p>-If no Canadian approved degree, assessed as if domestic applicant; if CBAE-approved, likely to be acceptable, if not, close scrutiny given.</p> <p>-If degree not acceptable, may be given chance to do make-up courses.</p> <p>-Once academic qualifications accepted, domestic rules apply. Can receive credit for up to 18 months foreign work experience and can be exempted from all or part of Registration Board exams.</p>
<p><u>British Columbia</u></p> <p>(Architectural Profession Act, R.S.B.C., 1960, c.16).</p> <p>-Resident of British Columbia.</p> <p>-Has approved degree in architecture and 2 years post-graduate work experience,</p> <p style="text-align: center;">OR</p> <p>5 years as articling student and passed required exams, with 2 years of work experience subsequent.</p> <p>-Registration Board courses completed (Group I = legal aspects, Group II = management, and are oral exams as well; need 12 months experience to write Group I, 24 months for Group II).</p> <p>-OR, if employed by member or qualified architect outside B.C. for 15 years, or practised outside B.C. as qualified architect for 8 years, and</p> <p>pass required exams, and are nominated by 5 members.</p>	<p>-Member of other provincial association in active practice for 2 out of 5 preceding years, and,</p> <p>-If pass pre-screening oral exam, (on local practice) will be exempt from Registration Board course.</p>	<p>-If member of R.I.B.A., or hold N.C.A.R.B. certificate from U.S., will be eligible for pre-screening oral and exemption from Registration Board courses. (Does not consider degree if qualify here.)</p> <p>-Otherwise must get national certificate from R.A.I.C., do 2 years experience and Registration Board courses.</p>

What Body Evaluates Qualifications?	Does Decision-making Body have discretion about Acceptable Qualifications?	Are Transfer Candidates allowed a Hearing?	Appeal Rights
<u>Ontario</u> Registration Board - 3 academics, plus 6 practitioners, 1 appointed by cabinet and 5 elected by members.	No, equivalent qualifications can be approved, but basic components - academic, work experience of 3 years and Registration Board or equivalent - are necessary.	Yes - by Committee of Examiners (more an oral exam situation).	No.
<u>British Columbia</u> R.A.I.C. National Board evaluates academic credentials; Examining Board of A.I.B.C. makes other evaluations. No information re Board membership.	No, other than authority to determine equivalent qualifications.	Pre-screening oral, but not a hearing.	No.

TRANSFER STANDARDS

	Domestic Qualifications	Registered in Other Provinces	Foreign Jurisdiction
<u>Alberta</u> The Architects Act, R.S.A., 1970, c.22 and regulations).	<p>-Domiciled in Alberta.</p> <p>-Architecture degree or other qualification approved by University Co-ordinating Council, and 2 years post-graduate experience with registered architect, at least 1 year with registered Canadian architect (or U.C.C. practice exams).</p> <p><u>OR</u></p> <p>-Degree in arch. technology recognized by U.C.C. and 5 year post-graduate experience as draftsman and U.C.C. exams.</p> <p><u>OR</u></p> <p>-High school graduate, 7 year experience as draftsman and U.C.C. exams.</p>	<p>-Membership in other provincial association, and 2 years post-graduate experience -- 1 with registered Canadian architect.</p>	<p>-Same as domestic, but Committee tends to accept degrees accredited by A.I.A. (U.S.), or R.I.B.A. (U.K.). Otherwise, compare course descriptions with R.A.I.C. syllabus.</p> <p>-Can get credit for 1 year of practice outside Canada, or take U.C.C. exams.</p>
<u>Saskatchewan</u> (The Architects Act, S.S. 1968, c.6).	<p>-1 year residence in province.</p> <p>-Architecture degree from school approved by Council and 2 years approved work experience or approved equivalents.</p> <p>-Required exams.</p>	<p>-If Saskatchewan has reciprocal agreement with jurisdiction, automatic admittance given-- only agreement is with Manitoba.</p> <p>-Members of other associations must reside in Saskatchewan 1 year and write architecture jurisprudence exam.</p>	<p>-Need acceptable degree - R.A.I.C. minimum syllabus used, and R.I.B.A. (U.K.), AND A.I.A. (U.S.), approved schools generally accepted.</p> <p>-If association has standards equivalent to Saskatchewan, 1 year of Saskatchewan work experience and architecture jurisprudence exam required.</p>

	What Body Evaluates Qualifications?	Does Decision-making Body have discretion about Acceptable Qualifications?	Are Transfer Candidates allowed a Hearing?	Appeal Rights
Alberta	Board of Examiners, established under U.C.C., and comprised of 6 registered architects, 4 academics, 1 professional from profession associated with architecture, and 1 layman.	No, except for determining equivalent qualifications.	No information given.	No.
Saskatchewan	Board of Examiners, made up of academics and practitioners, uses R.A.I.C. minimum syllabus.	No information.	No information.	No.



TRANSFER STANDARDS

Domestic Qualifications	Registered in Other Provinces	Foreign Jurisdiction
<p><u>Manitoba</u> (The Architects Act, R.S.M., 1970, c.A130).</p>	<p>-Same as domestic -- work experience in other provinces generally acceptable.</p>	<p>-If no Canadian architecture degree, must get R.A.I.C. certification. If not acceptable, Canadian upgrade through R.A.I.C. minimum syllabus program.</p> <p>-2 years work experience with Manitoba architect; some credit may be given for experience under architect licensed elsewhere in Canada, or U.S.</p> <p>-Pass Professional Practice exam (legal aspects - required in University of Manitoba, B.Arch, course).</p>
<p><u>Quebec</u> (The Architects Act, S.Q., 1973, c.59, and regulations).</p>	<p>-Member of other provincial association with reciprocal agreement (Ontario and Manitoba), and fulfill languages and citizenship requirements.</p> <p>-Otherwise, comply with general rules and equivalency standards.</p>	<p>-Domestic rules, but are special regulations re equivalencies of academic work:</p> <p>-Diploma equivalence based on detailed standards including:</p> <p>-Course hours and subjects, mandatory and optional.</p> <p>-Diploma approved by certifying body in jurisdiction, or is on list of R.A.I.C., N.A.A.B. (U.S.), or R.I.B.A. (U.K.).</p> <p>-Training equivalence - has degree recognized by certifying body or on lists, as above, but not appropriate courses; but does demonstrate by work done and courses and diploma completed that he has relevant knowledge and has 10 years work experience.</p>

What Body Evaluates Qualifications?	Does Decision-making Body have discretion about Acceptable Qualifications?	Are Transfer Candidates allowed a Hearing?	Appeal Rights
<u>Manitoba</u>  Registration Board - separate from Council, but no information on membership.	No information.	No information.	Yes.
<u>Quebec</u>  Admissions Committee, with 6 members - practitioners or academics - and 3 or 4 others, academics, who form subcommittee to establish equivalence of academic credentials.	Yes, - discretion re equivalent qualifications and the Bureau has wide general discretion on registration.	No, but are written reasons if equivalence of qualifications rejected, and suggestions are given as to courses or training needed to upgrade.	No.

TRANSFER STANDARDS

Domestic Qualifications	Registered in Other Provinces	Foreign Jurisdiction
<u>Nova Scotia</u> (Architects Act, R.S.N.S., 1967, c.13, and regulations).	<p>-Provincial resident.</p> <p>-Approved architecture degree and 2 years work experience in member's office, and professional practice exam.</p> <p>-Student member, clerk 7 years, and pass professional practice exam.</p>	<p>-Member of non-Canadian association similar to N.S. association, approved by Council (none are); 2 years work experience (1 year in Canada); and professional practice exam.</p>
<u>Prince Edward Island</u>	Scotia; No information for New Brunswick.	
<u>Newfoundland</u> (Newfoundland Architects Act, R.S.N., 1970, c.253).	<p>-Provincial domicile, R.A.I.C. certification and 3 years post-graduate experience.</p> <p>-Provincial domicile and R.A.I.C. certification, and 3 years post-graduate experience.</p>	<p>-Provincial domicile and R.A.I.C. certification and 3 years post-graduate experience in Canada.</p>

What Body Evaluates Qualifications?	Does Decision-making Body have discretion about Acceptable Qualifications?	Are Transfer Candidates allowed a Hearing?	Appeal Rights
<u>Nova Scotia</u> Board of Examiners, but composition not indicated.	No, except to determine equivalent qualifications.	No information.	No.
<u>Newfoundland</u> Registration Board - composition not indicated.	No information.	No information.	No.

## VIII. ENGINEERING AND TRANSFER REGULATIONS

### A. Current Regulations Governing Admission to Practice of Non-Transfer Candidates<sup>62</sup>

Authorized practise of engineering in Ontario requires membership in the Association of Professional Engineers of Ontario (APEO). The substantive requirements for admission to APEO are the completion of the APEO exams (or exemption) and six years of appropriate work experience (or exemption). Applicants must also be twenty-one years of age and reside in Ontario, or, if residing elsewhere, be employed full-time for an indefinite period by an Ontario employer. A non-resident applicant, if eligible for registration, will be required to restrict his practice to his employer's projects, and will not be allowed to offer his services to other clients in Ontario.

The most common route for entrance of a domestic candidate to the APEO is completion of an approved Canadian Engineering degree in lieu of completion of the APEO exams and completion of two years of work experience (APEO grants a four year exemption for work experience to holders of approved degrees).

The APEO Council does not have any overriding discretion to admit an applicant for membership who does not meet these requirements. However, the Association bylaws provide wide latitude for discretionary decisions with respect to those deficient in academic qualifications. Bylaw 2 allows the Association's Appeal Board to make recommendations to Council as to exam exemptions which might be granted an applicant on the basis of the applicant's "record of accomplishment and level of responsibility in the field of engineering."<sup>63</sup>

#### 1. APEO examination system

The APEO examination system was a decade ago a full-blown method of establishing formal qualifications necessary for practice as an engineer.

Senior matriculation was the only prerequisite to the writing of these exams, and candidates were free to prepare as they thought necessary.

In 1970 the Council began to phase out the exam system for several reasons: the exams had a high failure rate and were seen as a poor educational experience for candidates; it was seen as proper that "engineers be educated by engineering schools";<sup>64</sup> and most other professional associations required a university degree as a condition of membership. The Council set up a seven year plan which would each year raise the minimum educational qualifications necessary to write the exams and shorten the time period within which all exams must be completed. It was anticipated that at the end of this phase-out that the APEO exam system would no longer exist and that all required testing would be done in the context of courses at approved educational institutions.

In 1973 this phase-out was halted because of the report of the Committee on Post Secondary Education in Ontario. That report suggested that admission to professional practice be based solely on knowledge and performance tested at the time of entry to the profession, and that consideration should be given to eliminating formal education requirements as conditions of taking professional licensing exams in the interest of broader access to the professions. The exam system is now frozen in the state it was in 1973, and education at the level of an engineering technologist (three year community college programme) is required for admission to the exam programme. The APEO Council hopes that the phase-out of the system can continue when part-time engineering courses become more numerous and access to engineering education is thus broadened.

The syllabus of the APEO exam system was developed by the Canadian Council of Professional Engineers (CCPE), a national coordinating body for provincial associations, and that syllabus is the basis of the exam systems offered in most other provinces. This similarity in academic standards increases mobility of members throughout Canada.



The exam consists of a section 1 set of exams in engineering fundamentals, testing basics in math, chemistry and physics, and a section 2 set of professional exams with two parts. Part A, taken by all candidates, covers professional practice and has two exams, one in professional practice and another in economics, law, management and specifications. Part B is a set of exams covering engineering specialties (e.g., civil, mechanical, mining engineering), and a candidate may be required to write one or more of these depending on the branch in which he wishes to specialize. He may also be required to submit a thesis on a subject within his specialty.

When a candidate applies for admission to the APEO, his academic qualifications are evaluated, exemptions from certain subjects are granted on the basis of those qualifications, and he is notified of what his individual examination requirements will be. Subject group exams must be taken in a prescribed sequence (Fundamentals of Engineering first, and specialties later), and all exams must be completed within a five year period. The APEO provides candidates with a detailed syllabus, and updated reading lists and lists of courses helpful in preparation for the exams, but no sample examinations are made available. APEO exams are offered only once a year at fourteen centres in Ontario. The exams are offered outside the country only if a candidate has already written one exam in Canada, is compelled to go abroad for business reasons, and can persuade an APEO member to administer further exams in that country.

## 2. Approved degree programme

Approved university programmes in Canada which the APEO accepts in lieu of examinations are those accredited by the Canadian Accreditation Board (CAB), a standing committee of the Canadian Council of Professional Engineers. The CAB's recommendations with respect to approved Canadian degrees are also

generally accepted by other provincial associations, so that there is a national standard on academic requirements for licensing.

When the CAB was established in 1965, it initially accredited all educational programmes acceptable to the engineering association in each province, but later made intensive evaluations of each programme through visiting teams which examined course content and standard, and evaluated the quality of the faculty, library facilities, laboratories, examinations, etc. A review is done every five years of each programme. The CAB has issued a policy statement which details the factors it considers in its quantitative and qualitative evaluation of a programme as well as guidelines for the typical contents of an approved four year degree in engineering.<sup>65</sup>

Foreign as well as Canadian degrees can be approved by the APEO. The CAB does not formally accredit such degrees, but does collect information and assess them, passing the results on to provincial associations. To do this it maintains liaison with bodies similar to it in other countries, such as the Engineering Council on Professional Development (ECPD) in the U.S.. Evaluation of foreign degrees is discussed at more length later in this paper.

### 3. Work experience

Applicants who qualify through possession of an approved degree may be exempted from four of the required six years work experience; those with a master's degree in engineering from one additional year; and those who qualify through the exam system can gain exemption for experience as engineering technicians and technologists prior to their completion of the exams.

The content and standard of work experience required is not strictly controlled by the APEO Council. A student does not have to be supervised in his work experience programme by an engineer, although it is expected that a professional engineer should be involved in the experience

programme and that he should be able to comment adequately on a candidate's work experience. No specific activities are required in work experience. Suggestions of general areas of activity "satisfactory to the Council" (and those activities which are satisfactory only with qualifications) are given to students, but no suggestions are made as to particular skills which should be developed or appropriate periods of time to devote to different pursuits.

A candidate must at the end of his work experience submit a brief record of it, with lists of employers who can be contacted as references.

Satisfactory engineering experience in other jurisdictions, including foreign countries, is also acceptable.

#### 4. Hearing and appeals

If an applicant is refused membership after having met academic and experience requirements and shown required evidence of good moral character and paid required fees, then The Professional Engineers Act entitles him to a hearing before a Council-appointed committee. An informal review process has also been set up whereby those who fail the APEO exams or who are refused a requested exemption from work experience are given reconsideration by internal APEO boards. No right of appeal of any decision by the Council or its committees is granted.

#### B. Transfers From Other Provinces

Members in good standing of other provincial engineering associations may transfer automatically to the APEO upon proof of Ontario residence. The engineering profession has standardized academic and work experience requirements across the country.

Members of other provincial associations not resident in Ontario can also be granted by the Registrar of the APEO temporary licences limited to work on a specific project for one employer for a period of not more than one year. The Act permits licensees in another Canadian province or territory to practice engineering in Ontario without any licence if they are employees of a public service corporation engaged in an inter-provincial undertaking or of the Federal government.

Applicants for a licence who are refused have the same appeal rights as applicants for membership in the APEO who are refused.

### C. Transfers from Other Countries

Members of engineering associations in the Commonwealth or the U.S. which have "objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario" can also be automatically admitted once resident in Ontario.<sup>66</sup> Applicants who do not gain automatic acceptance by the above rule must qualify under regular admission rules -- i.e., pass APEO exams or be exempted in whole or part from the exams because of academic qualifications, and complete work experience of up to six years with exemptions for academic training or foreign work experience.

In practice the APEO has not formally designated any foreign association whose members are "automatically" admitted to practise in Ontario, but has a general policy giving full exemptions from the Association's exams to graduates of certain U.S. engineering programmes and to members of certain engineering groups within the U.K. Very few applicants are ever rejected because of unsatisfactory work experience.

#### 1. Academic qualifications

The APEO Council approves full exemptions from APEO exams for

graduates of foreign engineering programmes which are substantially the same as a Canadian-approved one in scope and standard. The standards against which foreign programmes are measured are the CAB's standards for accreditation of Canadian engineering programmes and the syllabus of the APEO exam system.

Both domestic and foreign transfer candidates for APEO membership must apply to the Council for assessment of their academic qualifications and determination of what, if any, exemptions they will be given from the Association's exam programme.

An applicant's academic qualifications are first assessed by the APEO Council's Registrar, who can make recommendations to the Council as to a full or partial exemption from APEO exams, or who can refer the matter to the Board of Examiners for further investigation and a decision as to full or partial exemption. The Board of Examiners is made up of three engineering academics (one from university; two from community colleges) and three practitioners (some graduates of a university programme and some products of the exam system).

The Board and the Registrar are restricted in their determinations to a consideration of the applicant's formal engineering education. The CAB has collected and analysed information about foreign engineering education programmes upon which the Board and Registrar draws in its assessment of a foreign applicant's credentials. They also rely upon information collected from direct correspondence with foreign licensing bodies or educational institutions and information supplied by the applicant himself. If the Board feels it has insufficient information, it may interview an applicant and require him to supply further information about his engineering education.

If the Board feels that an applicant's academic credentials fall short of the standard of an approved Canadian degree but think that his work experience or other scientific education may demonstrate knowledge in areas in



which formal education is lacking, then the matter can be referred to the Appeal Board. This Board can interview the applicant and can make recommendations to Council with respect to full or partial exemption from exams if the applicant's experience indicates ability or knowledge in excess of the minimum requirements in some respects.

The Registrar and Board of Examiners have worked out general guidelines for exemptions which are applied by the Registrar in most cases. These guidelines are communicated to applicants in an information bulletin. Those with degrees from U.S. schools accredited by the ECPD and those who are graduates of honours courses from U.K. universities or who hold the highest category of membership in a constituent association of the U.K. Council of Engineering Institutions (U.K.C.E.I.) and who possess the equivalent of a U.K. Higher National Diploma are granted a full exemption from APEO exams. Holders of Diploma Engineer and Doctor Engineer degrees from some European universities are also granted a full exemption.

Partial exemption will generally be granted those with university engineering degrees not recognized by the Board for full exemption. Transfer applicants in this category are usually assigned a set of four "confirmatory examinations" selected from the APEO exam system: the exam in Professional Practice; the exam in Economics, Law, Management and Specifications; and two three hour papers from the Professional examinations chosen from the branch in which the applicant wishes to be registered. If the applicant passes all confirmatory exams on the first attempt, he can be registered without further examination. If he is not successful, his application will be referred back to the Board of Examiners, which may set further exam requirements.

Partial exemptions will also be granted candidates with diplomas in engineering technology awarded on completion of a three year post-secondary programme or its equivalent and those who have completed the major portion of



a recognized engineering programme or who have science degrees. No general guidelines have as yet been worked out for these candidates.

Each applicant not fully exempted from exams will be given by the Board of Examiners an individually-tailored exam programme from the APEO system to remedy his deficiencies. He will also be given a time limit within which to complete the programme.

Those who do not qualify for registration immediately may be able to find employment as engineering technologists or technicians while studying for exams.

## 2. Work experience

As stated previously, adequate foreign work experience can satisfy all of the work experience requirements. It appears that if an applicant's academic credentials are acceptable, his foreign work experience will also generally be accepted. The Registrar's reports for a two year period (1974-76) indicated that only one applicant was refused registration because of inadequate work experience.<sup>67</sup>

## 3. Temporary licence

A non-Canadian resident who has qualifications equal to those required for registration as an engineer in Ontario and who is a consulting specialist with at least ten years work experience may be granted a temporary licence to work for one employer on a specific project. As is the case with licences granted to engineers from other provinces, it is good for one year. A non-Canadian licensee can also be required to work in collaboration with an APEO member if Council feels that the public interest and safety require this. A non-Canadian applicant for a licence, if refused, has the same appeal rights as an unsuccessful applicant for Association membership.

D. Comparative Transfer Regulations<sup>68</sup>

1. Other Canadian provinces (see Chart, p.130)

Almost all other provinces automatically accept as members applicants who are members in good standing of other provincial associations and resident in the province to which they are applying. Some provinces allow an applicant to practice while his application is being processed. This level of mobility is understandable, given the uniformity in academic and work experience requirements across Canada. British Columbia still does a case-by-case review of all provincial transfer applicants' credentials. Quebec has strict language, domicile and citizenship/landed immigrant requirements which must be met in addition to academic and experience conditions.

With respect to foreign transfer applications, some provinces (Saskatchewan and Manitoba), grant automatic membership to applicants from associations with similar objects and membership requirements -- U.S. state registration boards and members of constituent associations of the U.K.C.E.I. Most provinces, however, while they take such memberships into account, will do an evaluation of the individual's academic credentials and work experience. Most provinces accept U.S. ECPD-approved courses, and use CAB guidelines and information to evaluate other foreign degrees. Many do not -- as the APEO does -- take into account work experience to supplement any deficiencies in formal academic qualifications.

Many other provincial associations require that part of the required work experience be obtained in Canada or the United States; the APEO does not.

Most associations also issue temporary licences on a basis similar to the APEO, although some do not require that they be limited to a specific project. New Brunswick allows members of other provincial associations to

practice without a licence or membership if employed by a government or public utility.

Several provinces do allow appeals to Court by unsuccessful applicants, but these rights are rarely used. Alberta's right of appeal is limited to applicants rejected on the basis of deficient moral character. Apparently no associations provide formal hearing rights, although reconsideration of decisions is granted in some provinces.

## 2. Australia

There is no mandatory registration of engineers in Australia except in one state, but employers usually require applicants for employment to have academic qualifications accepted by the Australian Institute of Engineers for graduate membership. The Institution has several grades of membership: student (still completing engineering education); graduate (has passed Institution exams or been exempted from such because of engineering degree); member (has passed exams or is exempt and has four years professional engineering experience); and fellow (is a member and has at least five years experience in engineering positions with major responsibility, or has excellent educational qualifications and experience and has made an important contribution to the science of engineering, or has "suitable" training, fifteen years experience and is eminent in the profession).

All foreign degrees held by applicants are individually assessed for exam exemptions by the Institution, but where U.S. or certain Commonwealth degrees (from the U.K., New Zealand, South Africa and Canada) are concerned, assessments of national engineering educational bodies in those countries are usually accepted. The Institution's Foreign Qualifications Committee evaluates academic qualifications from applicants trained in countries with European languages. The Committee will include members educated in these countries and

conversant with the language and standard of training required. Those who do not meet minimum education requirements can pass an exam programme.

Assessments of work experience supplement evaluations of formal educational qualifications. The Institution has teams in some foreign countries who can directly investigate a candidate's experience; in other cases it relies on references.

### 3. England<sup>69</sup>

As in Australia, in England there is no requirement that engineers be licensed in order to practice engineering. Voluntary engineering associations exist in different branches of engineering and have varying academic requirements for membership. An umbrella group, the United Kingdom Council of Engineering Institutions (CEI) was established thirteen years ago to harmonize professional engineering standards throughout the various branches of the profession and grants the title Chartered Engineer (C.Eng.) to members of constituent associations. Some constituent associations have criticized the CEI's performance, saying that it has not raised standards of engineering but lowered them in order to accomodate certain member associations. This criticism is reflected in APEO policies with respect to exam exemptions for U.K. engineers.<sup>70</sup> Those who hold a C.Eng. designation are not granted an exemption on that basis; Fellows of a constituent association of the CEI (the highest of several categories of membership) are granted complete exemption from exams if they also have academic qualifications equivalent to the U.K.'s Higher National Diploma; members of such associations of the CEI who do not hold the highest category of membership are accorded a complete exemption from APEO exams only if they passed the CEI exams without exemption or if their institution certifies that they have educational qualifications equal to those of a holder of an ordinary degree in engineering.

Currently there is a commission of enquiry in the U.K. which is considering the advisability of requiring mandatory registration for engineers. Some constituent associations are arguing strongly for this change, and submit that a four or five year engineering degree should be required for registration.

#### IX. ENGINEERING: COMMENTS AND RECOMMENDATIONS ON ONTARIO'S TRANSFER REGULATIONS

The APEO has no statistics as to the number of engineers who have transferred to practise in Ontario from other countries or other provinces or as to unsuccessful transfer applicants.

The APEO's system for admission of transfer applicants from other provinces or countries has many progressive features:

- National standards with respect to academic qualifications allow automatic transfer of engineers who are members of other provincial engineering associations.

- All applicants, whether domestic or transfer, are given the opportunity of proving their competence through the APEO exam system. Thus, standards are skill-based, rather than oriented to possession of credentials. This allows applicants to prepare and educate themselves as they think best to attain the required standards of competence.

- Applicants who must write APEO exams are given fairly detailed information on the syllabus which is the basis of the exams, and texts and courses which might be helpful in preparation are suggested.

- Clear standards exist for the evaluation of foreign degrees (for the purpose of granting exam exemptions) and, where possible, general rules with respect to exemptions are formulated which apply to all graduates of a particular educational programme. The standards for evaluation and any general exemption policies are communicated to applicants inquiring about admission.



- Assessment of academic qualifications takes into account skills demonstrated in work experience which may provide a further basis for exam exemption.

- Those with deficient academic or experience records not meriting full exam exemptions are not required to complete the entire exam programme, but only those exams in which there is a deficiency. There is no necessity to repeat exams in subjects in which qualifications have already been demonstrated. There is no necessity that an applicant enroll in a particular course in order to take a required exam. Deficiencies are therefore remedied in a fashion which is the least time-consuming and expensive for both the applicant and the Association.

However, a few recommendations can be made for improvement of the transfer regulations.

#### A.1. Retention of qualification by exam

If and when the APEO exam system is abolished for domestic candidates as a method of demonstrating academic qualifications, it should be retained to allow foreign transfer applicants who do not have engineering degrees equivalent in all respects to those approved by the Association to upgrade their qualifications for registration. Transfer applicants with deficiencies in their academic credentials may have through work or informal study acquired knowledge remedying those deficiencies which could be demonstrated on an exam without the necessity of attendance at a university or college course. Or such applicants might be able to learn the required subject matter more quickly through private study with a tutor than they could in a course. To force such applicants to complete approved Canadian courses rather than passing the exams which would be given in those courses would in some cases unnecessarily delay an applicant's registration and the increased earning



power which usually goes with it.

However, under such a system, domestic applicants would not be allowed to demonstrate their qualifications through examination but would be compelled to obtain approved engineering education. In order to ensure equity of treatment to domestic and foreign transfer applicants, the alternative exam route towards registration should only be available to foreign transfer candidates who have spent at least as much time in an engineering educational programme before application as they would be required to spend in Ontario to obtain an approved engineering degree.

## 2. Exam administration

Some improvements could be made in the administration of APEO exams which would make the process a more satisfactory evaluative and educational experience. Copies of past exams should be supplied to examination candidates to outline more clearly the areas of knowledge and types of problem a candidate is expected to master. Unsuccessful exam candidates should receive feedback indicating their areas of deficiency, and, if requested, an analysis of their performance indicating what would have been satisfactory. Such a practice is followed by the Certified General Accountants Association of Ontario in dealing with unsuccessful exam candidates.<sup>71</sup>

Examinations should be given more often than once a year, although not necessarily at every centre in Ontario, so that there are not long delays before an applicant can prove his qualifications.

## 3. Temporary licences

The APEO Council has stated clearly that the only consideration which should be relevant in the granting of licences to non-Canadian residents is the protection of the public interest, and that the advancement (or protection)

of the interests of Ontario engineers should not be material to such a decision.<sup>72</sup> However, non-Canadian residents must meet substantive requirements to obtain a licence which are higher than those imposed on engineers from other provinces who wish a licence. They must not only demonstrate educational qualifications equal to those which would be required for membership in the APEO (which engineers in other provinces demonstrate by virtue of their membership in their home provincial association) but must be consulting specialists with at least ten years experience. This imposes a higher requirement than such applicants would have to fulfill if they were applying for permanent APEO membership. There is no reason why this additional requirement is necessary to protect the public interest, and it should be abolished. It would be justifiable to require that foreign applicants for a licence have at least the six years work experience (either pre- or post-registration, and allowing the same exemptions from the work experience requirement on the basis of academic credentials which are allowed membership applicants) required of domestic applicants for Association membership.

The Council's power to require that a non-Canadian applicant for a temporary licence collaborate with an APEO member in cases where public safety requires this because of the nature of the work being performed is justified and should be retained.

#### 4. Hearing and appeal rights

Although informal hearings by internal APEO committees are given both domestic and transfer applicants who fail APEO exams or who are refused exemptions for work experience, these rights should be expanded to include hearings for those refused exemptions from APEO exams or who are ultimately refused membership and should conform to the guidelines for a fair hearing set out in section III.11 of this paper. Following the procedure suggested,

an applicant would receive notice of a proposed decision with respect to exemptions from exam or work experience requirements or his membership application. If desired, he could receive written reasons for the proposed decision. He would have the opportunity to argue his case, or have counsel make argument for him, before an APEO hearing committee, perhaps the Appeal Board or a subcommittee of the Board of Examiners. That committee's decision, if unfavourable to the applicant, would be forwarded to the APEO Council, with a copy of the applicant's submissions, for a further decision.

If the Council's decision was unfavourable, then it is submitted that the applicant should have appeal rights to a quasi-judicial independent tribunal and then a Court as outlined in section III.11 of this paper. The reasons for suggesting an appeal to a quasi-judicial tribunal intermediate to an appeal to the Court are explained in that section. This appeal right should replace that presently given to all APEO applicants. The scope of the present appeal allowed is extremely limited; it allows appeal from a refusal of membership to an applicant who has fulfilled all membership requirements, but offers no redress against decisions made as to whether the applicant has in fact fulfilled these membership requirements.

#### B. Summary of recommendations made with Respect to Transfer Regulations

1. The APEO exam system should be retained as an alternate method of establishing academic qualifications for registration for foreign transfer applicants who have spent a period of time in a programme of engineering education which is at least equal in length to that required to obtain an approved engineering degree in Ontario.

2. Copies of past exams should be given to exam candidates, and unsuccessful exam candidates should be informed of the deficiencies in their performance. Exams should be offered more than once a year.

3. Temporary licences should be granted to applicants who are not Canadian residents if they have educational qualifications which meet APEO standards and if they have pre- or post-registration work experience totalling at least six years (taking into account exemptions they would be given by the APEO from work experience requirements on the basis of their education).

4. Hearing and appeal rights should be granted domestic and transfer applicants from decisions denying membership or requested exemptions from work experience or academic requirements and following the guidelines set out in section III.11 of this paper.

ENGINEERING -- TRANSFER RULES

Foreign Jurisdictions

Other Provinces

Domestic Qualifications

<p><u>Ontario</u></p>	<p>- pass APEO exams or get exemption (those with approved Can. degree or U.S. degree approved by U.S.E.C.P.D. or U.K. honours degree, or member of some U.K. Associations in U.K.C.E.I. given full exemption) (those with university degree without full exemption take confirmatory exam) (others must pass APEO exams within 5 years) - 6 years approved work experience (those with approved university degree get 4 year exemption) (foreign experience can be approved)</p>	<p>Automatic acceptance</p>	<p>- if member of engineers' associations in U.S or Commonwealth which has similar objectives and membership requirements no less rigorous than APEO, is automatically acceptable - otherwise follow domestic rules</p>
<p><u>British Columbia</u> (<u>Engineering Profession Act</u>, R.S.B.C. 1960, c. 128 &amp; UES)</p>	<p>- have approved degree or pass council exams - complete prescribed work experience</p>	<p>- not automatic -- will do individual evaluation of academic &amp; experience requirements; CAB - approval of courses considered, but not strictly adhered to - 2 years approved post-graduate experience</p>	<p>- same as domestic rules, in that no automatic transfers - U.S. ECPD - accredited courses accepted - other foreign schools evaluated by syllabus, performance of grads in B.C. and other sources, and approved list is compiled - U.S. grads need 2 years post-graduate experience; those with other approved degrees need 3 years; at least 1 year in Canada or U.S.</p>

What Body Evaluates Qualifications?	Hearing Given?	Appeal Rights?	Temporary Licence
<p><u>Ontario</u></p> <p>Board of Examiners &amp; Registrar evaluate acad. qualifications. Board is composed of 3 teaching staff &amp; 3 practitioners. Appeal Board evaluates whether work experience can supplement academic deficiencies</p>	<p>In some circumstances, failure of APEO exams re-considered by Board of Examiners.</p> <p>Complaints re evaluation of work experience reconsidered by Appeal Board</p> <p>If refusal of membership not based on inadequate academic experience or moral requirements, can have hearing like disciplinary hearing</p>	No	<p>- all temporary licences for a specific time (not more than 1 yr), project &amp; employer</p> <p>- available to members of other provincial associations &amp; non-Canadian residents with qualifications equal to those necessary for registration in Ontario</p> <p>Collaboration with Ontario engineer can be required from non-Canadian resident if public interest requires</p>
<p><u>British Columbia</u></p> <p>Board of Examiners evaluates qualifications; Board's Applications Committee evaluates work experience, and its Standards Ctee. evaluates academic qualifications. The Board has 6 academics and 5 practitioners</p>	No information	No	<p>Same criteria as membership, except for residence; issued on basis of specific job or limited time period (without requiring a specific job)</p>



TRANSFER RULES

Domestic Standards

Other Provinces

Foreign Jurisdictions

<p><u>Alberta</u> <u>(Engineering</u> <u>&amp; Related</u> <u>Professions</u> <u>Act, R.S.A.</u> <u>1970, c. 124)</u></p>	<p>- Approved university degree &amp; 2 yrs work experience; usually approved are: U.S. ECPD-approved degrees; APEO or CCPE - recognized foreign degrees; CAB-approved Canadian degrees; or degrees known &amp; approved of by academic board members or listed in World University Calendar or Universities Coordinating Council Exams &amp; 6 years work experience after high school graduation</p>	<p>Automatic acceptance of members or other associations. Temporary licence is issued while application is processed.</p>	<p>- No automatic acceptance Domestic rules apply, and not clear if foreign work experience can be o.k.</p>
<p><u>Saskatchewan</u> <u>(Engineering</u> <u>Profession</u> <u>Act, R.S.S.</u> <u>1966, c. 309)</u></p>	<p>- Approved university degree &amp; 2 yrs post-graduate experience. Approved degrees include those approved by CAB in Canada, ECPD in U.S., &amp; of foreign degrees, those approved by CCPE. Others evaluated ad hoc, (3 years work experience needed if degree in science, not engineering)</p> <p>or</p> <p>- passed association exams and 5 years work experience</p>	<p>Automatic admission if member of other provincial association</p>	<p>- Automatic admission if licensed by U.S. Registration Board. Otherwise, evaluation to see if associations objectives and membership requirements are comparable to APES. If not clearly comparable, apply domestic rules; 1 year of Canadian experience is preferred.</p>

What Body Evaluates Qualifications?	Hearing Rights?	Appeal Rights?	Temporary Licence
<u>Alberta</u>  Universities Coordinating Council's Board of Examiners in this subject area, with 2 committees. Academic committee made up of 8 academics, reviews educational requirements; Experience Committee is made up of 8 practitioners	No information	Only if refusal is because of deficient moral character	On same basis as membership. If not resident, licence is issued yearly, and not restricted to specific project
<u>Sask.</u>  Board of Examiners evaluates degrees; Admissions Committee evaluates work experience, mainly by references	No information	Yes	Same conditions as for membership, except for residence. In practice, not limited to particular project, although can be.

TRANSFER STANDARDS

Domestic Rules	Other provinces	Foreign Jurisdictions
<p>graduate of approved engineering course with 2 yrs experience or pass exams and 6 years experience</p>	<p>Automatic acceptance if resident in Manitoba</p>	<p>-Automatic acceptance if resident and member of association in U.S. or Commonwealth which is similar to Saskatchewan's -- i.e. one of U.S. Registration Boards. Otherwise must show foreign association's purpose includes protection of public -- if not, can dictate must have education assessed and/or write exams.</p>
<p>Have approved degree or pass required exams &amp; 2 yrs work experience, plus Quebec domicile &amp; Canadian citizenship (or landed immigrant), &amp; French language requirements</p> <p>Approved degrees include CAB - Can. degrees; others meeting CAB standards &amp; approved by all provincial associations, such as U.S. ECPD-approved degrees. List of approved degrees is maintained.</p>	<p>Accepts members of other provincial associations if meet language, domicile, and citizenship requirements</p>	<p>Don't evaluate foreign associations themselves, but evaluate academic qualifications and work experience.</p> <p>Old bylaws merely specify 2 yrs. experience -- new will require at least 1 year in Canada or perhaps Quebec (are junior members until work experience completed)</p>

Manitoba  
(Engineering Profession Act, R.S.M. 1970, c. E120)

Quebec  
(Engineers Act, R.S.Q., 1964, c. 262)

What Body Evaluated Qualifications?	Hearing Rights?	Appeal Rights?	Temporary Licenses
<u>Manitoba</u>	No information	Yes	To those registered with other provincial associations, but will impose terms as to duration and specific work allowed.
<u>Quebec</u>	Can have "reconsideration" by Committee of Examiners or Bureau.	No	If member of Canadian Association of Engineers & domiciled in Canada, can get temporary licence for special project. If don't meet above qualifications, but have approved degree or are member of a recognized association, then can get temporary licence if works in collaboration with Quebec member who signs plans.

TRANSFER RULES

Domestic Rules	Other Provinces	Foreign Jurisdiction
<p><u>New Brunswick</u> (Engineering Profession Act, S.N.B. 1970, c. L.55)</p>	<p>Automatic acceptance of members of other provincial associations; can practice while application is being processed.</p>	<ul style="list-style-type: none"> <li>- Must either pass council exams or have approved degree or equivalent. Board does subject-by-subject review, using CAB guidelines. Will generally accept U.S. "P.E." &amp; U.K. "C.Eng." Designations</li> <li>- Must have at least 1 years experience in Can. or U.S. -- other year can be foreign</li> <li>- All those with foreign degrees must pass exam 0.2.1 of CCPE Uniform Syllabus</li> </ul>
<p><u>Nova Scotia</u> (<u>Engineering Profession Act</u>, R.S.N.S. 1967, c. 90)</p>	<p>All members of other provincial Associations admitted</p>	<ul style="list-style-type: none"> <li>- Does assessment of individual academic qualifications, although generally accept all those from foreign associations recognized by CCPE.</li> </ul>
<p><u>P.E.I.</u></p>	<p>Has requirements almost identical to Nova Scotia, as does Newfoundland.</p>	

What Body Evaluates Qualifications?	Hearing Rights?	Appeal Rights?	Temporary Licenses
<u>New Brunswick</u>	Board of Examiners. Work experience not used to supplement academic credentials	No information	No  - If fulfill all other requirements except N.B. residence, can practice without license if non-resident, employed as engineer by government or public utility, and member of engineers association in other province.
<u>Nova Scotia</u>	Board of Examiners evaluates foreign degrees, using information from CAB, other associations & institutions, & syllabus	No information	Yes  If registered in an association of engineers with similar membership requirements-- e.g., U.S. & U.K. Associations



## X. ACCOUNTING AND TRANSFER REGULATIONS<sup>73</sup>

There are three major associations of accountants in Canada and Ontario, those representing chartered accountants, certified general accountants, and registered industrial accountants. Some provinces -- Ontario, Quebec, Nova Scotia, Prince Edward Island, and Newfoundland -- employ a licensing system to regulate the practice of public accountancy, and by and large will licence new applicants only if they are members of the provincial association of chartered accountants. Other provinces -- Alberta, Saskatchewan, Manitoba, and New Brunswick -- do not have a licensing system to regulate public accountancy, although they do have statutes providing for the incorporation and government of some or all of the professional associations of accountants. British Columbia does not provide for the regulation of public accountancy as Ontario and most of the Maritime provinces do, but its Companies Act states that accountants who prepare an audit for a public company must be members of British Columbia's association of chartered accountants or certified general accountants, or must receive certification as auditors from a provincial certification board.

This section will review transfer regulations of Ontario's Public Accountancy Council, and also of the three professional associations in Ontario, the Institute of Chartered Accountants of Ontario (ICAO), The Certified General Accountants Association of Ontario (CGAAO), and the Society of Management Accountants of Ontario (SMAO).

### A. Current Regulations Governing Admission to Practice of Non-Transfer Candidates

The Public Accountancy Act in Ontario provides that no one who is not licensed by the Public Accountants Council shall practise as a public accountant in Ontario. What area of practice is the sole preserve of public accountants is

discussed in depth elsewhere.<sup>74</sup> Briefly, a public accountant is someone who engages for reward in a public practice involving the preparation of financial statements or reports and who in some way purports to verify to other parties the correctness of the statement or report as an independent expert. Those who perform these services exclusively for some institutions, such as public authorities, commissions, banks, or publicly-controlled transportation or utility companies, are exempted from the licensure requirement.

An applicant is entitled to a licence if he is of good character and a member in good standing of the Institute of Chartered Accountants of Ontario (ICAO). A grandfather clause allows certain persons, e.g., members of the Certified General Accountants Association of Ontario (CGAAO), and the Accredited Public Accountants Association, in 1962 when the Act came into effect, to be licensed. The Public Accountants Council (PAC) may also allow applicants who do not meet the above requirements to be licensed in special circumstances, but there are indications that the Council has not exercised this discretion to admit anyone who could not normally qualify for membership in the ICAO.<sup>75</sup>

Section 21 of the Act provides that where the Council refuses to grant a licence the applicant may appeal to the Supreme Court which may grant the licence or make any other order it feels is justified. The PAC had no records of an appeal by a dissatisfied applicant to the Court. It is not clear how broad a discretion the Court would have in hearing such an appeal. For example, if a candidate had applied for a licence asking special consideration under s. 14(2), it is possible that the Court would refuse to interfere with the Council's exercise of its discretion unless it could be shown that the Council had entertained improper considerations not related to the protection of the public in its deliberations.

The PAC may authorize a non-Ontario resident with an established accounting practice outside Ontario to practice without a licence in the

province on occasional short visits if his home jurisdiction extends similar privileges to Ontario public accountants. The Council may attach conditions and a time limit to such permission. This authorization for occasional practise can apparently be granted to public accountants from other provinces and other countries.

A non-resident public accountant may also practice in Ontario without a licence and without applying to the Council for permission if he is a member of a partnership maintaining an Ontario office which is actively directed by at least one licensed Ontario partner, and if the applicant's home jurisdiction extends reciprocal privileges to Ontario public accountants. This right is not limited to occasional practise.

1. Institute of Chartered Accountants of Ontario

The I.C.A.O. requires for membership:

- a) a university degree, and forty-five hours of approved university courses for training in accountancy which can have been part of the degree programme;
- b) work experience of two to three years;
- c) completion of an I.C.A.O.-conducted professional training programme and exams;
- d) completion of a comprehensive national practice exam, the Uniform Final Examination (UFE).

University course requirements

The I.C.A.O. requires most applicants to have a Canadian university degree -- although not in any particular area. A mature applicant may be admitted without a degree if he is over twenty-five years of age, has suitable scores on the Graduate Management Admission Test (GMAT), and has three to five

years experience in business or accounting.

Except for mature applicants, applicants to the I.C.A.O. must have completed their university degree before they can be accepted as students in the Institute's programme and fulfill requirements for work experience, the School of Public Accountancy and the Uniform Final Examination. However, the I.C.A.O. allows several categories of "conditional" applicants to enter the programme and begin to fulfill these other requirements while they are completing a university degree. Conditional applicants include high school graduates in the process of obtaining a degree and working part-time with a C.A. firm, those in Waterloo University's work/study programme, and those transferring from a community college to a university programme with advanced standing. Students in or members of the S.M.A.O. or the C.G.A.A.O. cannot transfer directly into the I.C.A.O. Their individual academic records are evaluated, and they are given appropriate advanced standing credit. After completing additional course work, required work experience, the School of Accountancy programme and the UFE, they can be admitted to the I.C.A.O. Typically, an S.M.A.O. member will be required to complete an additional twenty-four hours of university degree credit, and a C.G.A.A.O. member an additional thirty hours of university credit.

A candidate must also successfully complete forty-five hours of study in specifically prescribed university courses, which include financial and management accounting, law, taxation, auditing, computer science and economics. A list of approved subjects in different Ontario universities is provided to candidates.

#### Work experience requirement

Experience requirements must generally be fulfilled after university graduation. Before a student is permitted to register in the I.C.A.O. programme

for training, he must be employed by an approved chartered accountant's office. Both the type of experience and the firm must be approved by the I.C.A.O. C.A. offices are investigated by the I.C.A.O.'s Experience Appraisal Committee to ensure that they will provide experience of sufficient diversity, complexity and level of responsibility, and the C.A. must keep detailed records on how the student's time is used. A limit is placed on the number of students which can be employed by each member, and reviews are conducted of approved firms when major changes in the firm occur. Firm members are visited by Committee members to ensure they understand their responsibility as principals.

Students must have a minimum number of hours of experience in certain core areas. They must keep records of how chargeable hours are spent, and submit this record with a certificate that they have met the experience requirements signed by the employer.

Applicants must generally complete three years of work experience. Some applicants are exempted from up to one year of this requirement because of good academic qualifications. For example, only two years experience is required of MBA graduates of designated universities and of university graduates who have completed thirty-nine of the required forty-five semester hours before their work experience commences, and who have a sufficiently high GMAT score and an A average in their last ten university courses.

#### Professional training requirement

Students must complete a one-week staff training course within nine months of beginning their work experience and attend the I.C.A.O.'s six week summer programme at the School of Public Accountancy and pass its exams. The latter programme cannot be begun before five months of work experience are completed and must be completed at least one year prior to the writing of the UFE.



The School's courses concentrate on "areas of advanced auditing and professional practice, advanced and specialized accounting and taxation. The emphasis is on certain areas which the student is not expected to have covered in his university courses and on aspects of the professional practice of accounting which the student should have mastered by the time he qualifies as a chartered accountant."<sup>76</sup> Satisfactory grades must be achieved overall and in specific subject areas. If a candidate does not achieve the required overall average he will be required to complete the programme again the next year.

#### Uniform Final Examination

The UFE must be passed by all candidates for I.C.A.O. membership. It is set and marked by a national inter-provincial Education Committee and Board of Examiners and is used in all provinces.

The exam consists of four papers, one being a comprehensive case-type problem. The exam was changed in 1970 in response to criticism to reflect more emphasis on current accounting literature, to introduce comprehensive problem questions and increase emphasis on multi-subject questions, and to decrease emphasis on single subject matter questions.

The UFE is given once a year, and can only be attempted after two out of three required years of experience (or one year, if two are required) are completed. The exam failure rate is high, and it may be attempted four times. Exam candidates are provided with the uniform exam syllabus, but apparently not with past examinations.

#### Appeals and hearings

Although the I.C.A.O. provides an extensive hearing and appeal process to members who have been charged with professional misconduct, no



appeal or hearing is available to an applicant whose request for membership is rejected or who disputes the course exemptions given him or the failure of all or part of the UFE.

## 2. The Certified General Accountants Association of Ontario

The C.G.A.A.O. requires for membership:

- a) high school graduation in Ontario or the equivalent;
- b) completion of a seventeen course curriculum offered by the Association in accounting and related subjects, including national exams in each subject;
- c) a maximum of four years practical experience, which can be concurrent with course work.

### Academic requirements

The C.G.A.A.O. requires its students to take a course package which is available in correspondence courses or in lectures offered at community colleges and universities in eighteen locations in Ontario.

The curriculum has five levels and takes on the average about six years to complete; it must be completed within ten years of registration as a C.G.A.A.O. student. The curriculum is uniform across Canada and is designed and regularly revised by academics employed through the Certified General Accountants' National Council on Education.

In order to enroll as a student in the C.G.A.A.O. programme, an applicant must have Ontario high school graduation or its equivalent as certified by the Ontario Ministry of Education, and have Grade 12 or 13 level in algebra or take the Association's prepatory mathematics course.

Those who do not meet these requirements may be enrolled as mature students if they are at least twenty-one years old, have two years

acceptable business experience and complete the preparatory mathematics course.

Advanced standing can be granted students who have completed college or university courses with similar content and standards, but each application for advanced standing is assessed individually. Transfer applicants from the I.C.A.O. or the S.M.A.O. programmes are also given advanced standing credits based on their individual academic records.

In each course weekly assignments must be completed and an overall average of 65% in these assignments attained for a student to be eligible to write the exam in that course. Exams are given twice yearly. Four failures will compel withdrawal from the programme.

Students are given fairly detailed information about course content and texts and about procedures in courses and exams in the Association's calendar and student regulations. Because the national exams administered are directly tied to a nationally-developed course, students should have a fairly good idea of the material to be covered in each exam.

#### Work experience requirement

An Association student is allowed four years while completing his course work to acquire practical experience in many prescribed areas at prescribed levels of responsibility.

At three different stages in the student's academic training -- second, fourth and fifth levels -- the student and his employer are required to submit an experience profile which is reviewed by the Undergraduate Qualifications Review Committee. Although employers themselves are not specifically approved, as is done in the I.C.A.O., if a student's experience with a particular employer does not show sufficient breadth or responsibility then he may be required to change employment.

### Appeals and hearings

Although the C.G.A.A.O. has a three-stage hearing and appeal process for those charged with professional misconduct, it does not provide a formal hearing for those refused enrollment in the programme, advanced standing credits, or admission as a member. However, the Association's student regulations do provide that an aggrieved student may submit a written petition to the Undergraduate Petitions Committee. Although a student would be permitted to appear before the Committee, this is rarely done and petitions are usually submitted in writing and dealt with on that basis by the Committee. Petitions usually deal with complaints by students found ineligible to write exams or who failed exams but wish to bring unusual circumstances to the Committee's attention.

If the Petitions Committee finds the complaint has merit, it can refer it with a recommendation to the Administration Committee for decision. If the two committees cannot agree, the matter will be referred to the Association's Executive committee for decision. No appeal is available beyond this stage.

No appeal is available to a student who disputes the validity of certain exam questions. However, a student has a right to a detailed critique of his performance in an exam, and if requested the critique will be prepared by a marker paid by the Association.

### 3. Society of Management Accountants of Ontario

Completion of the S.M.A.O. programme leads to designation as a Registered Industrial Accountant (RIA).

### Academic qualifications

The S.M.A.O. has an educational programme similar in structure to

the C.G.A.A.O. Students are required to complete a five-level, eighteen course national curriculum offered by the Society and designed by academics employed by the national Society's Educational Services Committee.

High school graduation is a prerequisite to enrollment, but mature students who have not completed high school can be admitted. Advanced standing is offered applicants who have completed other courses judged equivalent by the Society, and a list of such equivalent courses is provided. The Society has also prepared a list of course exemptions which will be given to I.C.A.O. or C.G.A.A.O. students or members who wish to apply. The guidelines identify which courses at Ontario colleges or universities will merit an exemption, and up to four years' exemption can be given.

Students must complete 80% of course assignments to be eligible to write the exam in any course. Three attempts at exams are permitted in Level I and II courses.

Like the C.G.A.A.O., the Society offers its students information about course content, required texts, and rules prescribed for course assignments and exams before registration. Its exams are also linked directly to required courses so students should have a good idea of exam content. Exams are given twice yearly in many locations around the province.

#### Work experience

The Society requires its students to have four years work experience, not necessarily concurrent with studies, and up to two years exemption can be obtained on the basis of academic course exemptions awarded.

Students are given guidelines as to categories of acceptable experience, the highest category involving a breadth of accounting areas and a high level of responsibility, the lowest involving a much narrower variety of experience or level of responsibility. Two years' experience must be obtained

in the highest category and two can be in any category. Substitution among categories may be made, but experience in less highly rated positions may count for only one-third of the time spent in a highly rated position. Students are given guidelines as to what job functions and job titles would correspond to different categories of experience.

As in the C.G.A.A.O., there is no requirement that specific employers be approved as acceptable principals for students.

#### Appeals and hearings

Disciplinary hearings by the Society involve several levels of appeals, but no formal appeal structure for students refused enrollment or denied course exemptions are provided for in the legislation or bylaws. However, the Society's student regulations allow petitions to its Educational Services Committee. Usually these petitions are filed by students not permitted to write an exam or who fail an exam. There is no appeal beyond this level.

#### B. Transfer Regulations

The Public Accountancy Act contains no special transfer rules for accountants qualified to practise public accountancy in other provinces or countries. This means that such accountants must qualify under section 14(1) of the Act (the general rules for licensing, which basically require I.C.A.O. membership) or section 14(2) of the Act (which allows the Public Accountancy Council in special circumstances to exempt an applicant from conditions of admission) in order to be licensed. It does not appear that the Council uses its discretionary power under section 14(2) to deal with transferring professionals, so that they are in fact required to qualify for membership in the I.C.A.O. in order to be admitted under section 14(1).

Accountants from many of Canada's western provinces who are C.G.A.'s



and R.I.A.'s and who can practise public accountancy in their home provinces are not permitted to continue this practice in Ontario until they qualify for membership in the I.C.A.O., which in most cases will require additional university courses, enrollment in the School of Public Accountancy, and completion of the UFE. Such persons would not be eligible for I.C.A.O. licences for occasional practice either.

Since all three accountants associations are nationally-based and have common national standards, curriculum and exams, any member of a sister provincial association in good standing may upon moving to Ontario transfer without further qualification to the Ontario counterpart of his home association.

1. I.C.A.O. Transfer regulations for foreign-trained applicants

The I.C.A.O.'s bylaw 12 provides that an applicant trained outside Canada may be admitted to membership if he is of good moral character and is a member of a body with objects similar to the I.C.A.O.'s and:

- a) is resident in Canada and recommended by two I.C.A.O. members;
- b) completes the UFE or is exempted from it by the I.C.A.O.

Council if the standards attained for admission to practice in his home jurisdiction are sufficiently high;

- c) passes exams in Canadian law and taxation;
- d) has sufficient practical experience.

The I.C.A.O. has maintained statistical data over a thirteen year period  
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on applicants for its programme educated outside Canada. Of 1,139 such applicants students who made inquiries with respect to membership of the I.C.A.O., 987 were found to have educational qualifications equivalent to those required of a Canadian educated applicant and were thus eligible to register; the remaining 152 were found not eligible. Of the 987 found eligible, 488



actually registered in the Institute programme; 146 are registered as CA's, 131 are still students, and 211 discontinued in the programme. The rate of "discontinued" students is significantly higher than the overall rate for all CA students.

In recent years a much higher proportion of transfer applications considered was accepted, and a much higher proportion of those registered continued successfully in the programme. What this means is difficult to say. It could be that as more information about CA standards in Canada is available, only those likely to succeed apply and are registered as students. Or it could mean that educational levels in some host countries have risen, or that there is a change in the source of applications to countries which provide better accounting education.

#### Assessment of objects and membership standards of foreign CA associations

Unlike provincial associations in other professions, the I.C.A.O. concentrates on the overall standard a transfer applicant had to meet in his own jurisdiction rather than just the academic degree earned in making a decision about whether to exempt such an applicant from Ontario exam and academic requirements.

The I.C.A.O. relies heavily in its evaluations of the admission standards and objects of foreign associations on information provided by the International Qualifications Assessment Board (IQAB) of the Canadian Institute of Chartered Accountants (CICA), the national coordinating body for CA associations.

The IQAB assesses foreign accountancy bodies, not individual credentials. The Board has six members representing different perspectives in accounting (one from academia, one from government, one from industry, three from public practice). In its assessments of foreign bodies the Board

considers various factors:

- (a) educational entrance requirements;
- (b) subject matter coverage in any required educational programme, as compared with that covered by a Canadian CA;
- (c) method and scope of exams;
- (d) practical public accountancy experience requirements.

The Board does not attempt a direct "matching" between Canadian and foreign standards, but looks at the foreign body's standards and requirements as a whole in making an assessment. During initial investigation of a foreign body the IQAB may invite its representatives to meet with them to discuss and explain their programme. Re-evaluations are carried out every four to five years, or when there is a major change in the body's standards.<sup>78</sup>

Following the evaluation the IQAB recommends to member associations whether the members of the body concerned should be admitted to membership without writing the UFE because that body has objects and membership standards similar to those of Canadian CA associations. If no exemption is recommended, the IQAB outlines the reasons why and indicates areas of deficiency.

#### Designated associations

Members of associations which the I.C.A.O. designates as having similar objects and membership standards to its own are exempted from the UFE and from further educational requirements. To become I.C.A.O. members such applicants are required to pass exams in Canadian law and Taxation and on the CICA handbook and the Institute's rules of conduct. Satisfactory work experience must also be shown, and character references provided by I.C.A.O. members. I.C.A.O. officials report that transfer applicants have had no difficulty in providing these references.

At present, institutes of chartered accountants in Australia,

England and Wales, Ireland, Scotland, South Africa and Rhodesia (if members have passed S.A. examinations) and of the state societies of certified public accountants in the U.S. are "designated" by the I.C.A.O. Five hundred and twenty-four applicants from designated associations have been admitted to I.C.A.O. membership in the past ten years.<sup>79</sup>

Transfer applicants not from designated associations

If a transfer applicant is not from a designated association, then he can register as a student in the I.C.A.O. programme with appropriate advanced standing towards the forty-five semester hour requirement. The advanced standing given will be based on the IQAB's assessment of the deficiencies and strengths of the relevant foreign accountancy body and on information provided by the applicant about his own academic achievements, which may be in excess of those required by the public accountancy body in his home jurisdiction. Work experience is not taken into account when determining exemptions from course requirements. A candidate from a non-designated association cannot be exempted from all or part of the School of Public Accountancy of part of the UFE on the basis of his individual academic qualifications.

Applicants without exemption from the UFE after being credited for advanced standing will be required to become resident in Ontario and to:

- complete the balance of the forty-five semester hour requirement where there are deficiencies;
- provided that the applicant has served a minimum of three years of comparable public accountancy experience in his home jurisdiction, complete one year of experience in the office of an approved CA firm in Ontario, nine months of which must be completed immediately prior to the writing of the UFE;
- complete the School of Accountancy course;

- pass the UFE.

Foreign transfer applicants required to take the UFE have a much higher failure rate than I.C.A.O. students in general. The overall failure rate is between 30% - 40%, while the failure rate for foreign transfer applicants is about 80%.<sup>80</sup>

#### Work experience

Foreign work experience is assessed by the I.C.A.O.'s Applications Committee, which will correspond directly with the foreign employer to determine the nature and duration of the experience. Acceptable foreign experience must be equivalent in content to the I.C.A.O.'s, and sometimes even transferees with exemptions from the UFE are required to obtain some Canadian experience. The Committee consists of one Council member and eleven others: five are from large public accountancy firms; four from local/regional firms; one is a CA student; and one a non-CA/non-student representative of the public.

#### Appeals and hearings

Although no appeal is currently provided for students refused enrollment in the I.C.A.O. programme or exemptions for academic work or work experience, the Institute proposes to change its bylaws to provide a right of formal hearing for transfer applicants who are members of foreign accountancy bodies.

#### 2. C.G.A.A.O. Transfer Regulations for Foreign-Trained Applicants

C.G.A.A.O. bylaws state that a member in good standing of any sister or affiliated association in Canada, the United States or Great Britain who takes up residence in Ontario may be accepted as a member provided that his membership in his home association was obtained by examination (thus

excluding, for example, those who might have been admitted without formal education or examination because of grandfather clauses) and provided that their home association extends reciprocal privileges to the members of the C.G.A.A.O.

However, there are no associations in Great Britain or the United States with whom Ontario's Association has worked out a reciprocal agreement, and no foreign-trained applicants are admitted automatically pursuant to this bylaw. All have their academic and work experience qualifications assessed individually. The standards used are developed at a national level by the General Accountants Association of Canada (GAAC), which also offers provincial associations information about particular curriculum and work experience programmes offered in foreign countries.

The Association keeps no statistics showing the admission to the Association's programme or success rate by country of origin.

#### Academic qualifications

No foreign-trained student now obtains full exemption from the curriculum required of a C.G.A.A.O. student. All foreign-trained applicants are evaluated on the basis of their individual transcripts and given appropriate course exemptions from the C.G.A.A.O. curriculum. Applicants trained in British or U.S. programmes are usually admitted at the Association's Level IV, and required to complete five or six additional courses. Those trained in other countries are usually required to complete more coursework. No academic credit is given for work experience completed prior to application in the student's home country, no matter how extensive that experience is.

Foreign-trained applicants must submit a transcript for evaluation. No interviews with an applicant are held, and screening examinations are not used to determine the level of qualification. There are some institutions in Great Britain or the U.S. about which the national and provincial



Association already has up-to-date information, from course calendars furnished and meetings which the provincial Registrar or national Association staff have had with officials of the foreign association. When an applicant has been trained in an institution about which the Association has little information, the Association will correspond with that institution to obtain information on its programme.

The C.G.A.A.O. has not had enough foreign-trained applicants to develop a hard and fast policy about exemptions for applicants from many institutions, and still employs a "trial and error" process in granting exemptions to applicants from unfamiliar institutions. If a student's transcript shows that he has completed a course which seems basically similar to a C.G.A.A.O. course, he will obtain an exemption for it. However, if several students trained in that institution obtain exemptions in a course but their record in the C.G.A.A.O. programme indicates that they in fact have deficiencies in that course area, then the Association will revise its exemption policy and in the future will require students from that institution to complete the course in Ontario.

#### Work experience

Foreign applicants can obtain full or partial credit for their work experience in their home jurisdiction. This work experience is assessed by the same body which assesses the work experience of domestically trained applicants, the Undergraduate-Qualifications Review Committee.

#### Appeals and hearings

Foreign-trained applicants who feel that they have been unfairly denied course exemptions or work experience credits may appeal to the Petitions Committee.



### 3. S.M.A.O. Transfer Regulations for Foreign-Trained Applicants

There are no particular provisions in the S.M.A.O. bylaws for the admission of foreign-trained applicants, but in practice the society handles these applications in a similar way to the C.G.A.A.O.

No statistics are available as to the admission or success of foreign-trained applicants. The standards applied in evaluation of academic and work experience credentials are national, developed by the Society of Industrial Accountants of Canada (S.I.A.C.). If, for example, a management accountant trained in Pakistan was accepted as a student and given certain course exemptions by the Ontario society, he could expect to be given the same exemptions by any R.I.A. Society in Canada.

#### Academic qualifications

No foreign-trained student can now receive full exemption from all required courses. Each student is assessed individually for exemptions on the basis of his transcript. However, the S.I.A.C. has developed a general guideline of recommended course exemptions for students trained in most management accountants' programmes in the Commonwealth and U.S. which indicates to foreign applicants what exemptions they are likely to receive from societies of management accountants in Canada.

If the Ontario Society has had extensive experience with applicants from a particular jurisdiction and has current information about its programme, it will do its own evaluation of the applicants from that jurisdiction. If the applicant comes from a jurisdiction or institution with which the Ontario Society is unfamiliar, it will send the student's application to the national office for evaluation. The national office gathers information on the programmes offered in different jurisdictions, receives course calendars from many programmes, and arranges regular meetings for exchange of information between

its officials and those of other societies of management accountants in the English-speaking world.

A cautious "trial and error" approach is used with foreign applicants from jurisdictions about which both the provincial and national societies have little information. Applicants from those jurisdictions may be required to complete S.M.A.O. courses in certain subjects where it is not clear that the subjects they have taken in their home jurisdiction are similar to those covered in the S.M.A.O. curriculum. However, if several students from a particular foreign programme do well in a course, then in the future students from that programme will be granted an exemption from that course.

No academic credit is given for work experience, because Society officials feel that it is difficult to equate academic and practical experience. The one exception to this rule is data-processing work experience. The Society's curriculum in this area is very user-oriented, and an applicant's work experience in the field can merit a course exemption.

If an applicant is denied a course exemption and feels that he has sufficient knowledge to pass an examination in that course, he will be permitted to write the course exam, without enrolling in the course and completing the required assignments before examination. He will be furnished with course materials to help him prepare for the examination. Society officials indicate that students who attempt the examination without completing the course work generally have a low rate of success.

#### Work experience

Full or partial credit for foreign work experience can be given for the Society's work experience requirements. For example, applicants from the British Institute of Cost and Management Accountants and from the Pakistan Management Accountants get complete exemptions from the S.M.A.O. work experience requirements.

### Appeals and hearings

Foreign-trained applicants who are denied what they feel are appropriate course or work experience exemptions may appeal to the Society's Educational Services Committee.

### C. Comparative Transfer Regulations<sup>81</sup>

#### 1. Public accountancy practice

As was mentioned before, most of the western provinces do not regulate the practice of public accountancy. The legislation of the provinces which do regulate it, like Ontario, has no specific provision for transfer applicants from other provinces or countries. What this usually means is that transfer applicants who wish to practise public accountancy must meet the standards set out for admission to the provincial association of chartered accountants. In Quebec, however, there are wider exemptions from the necessity of having a licence to practise public accountancy than there are in other provinces which require a licence; exemptions are provided for those who do accounting and auditing work for most municipalities, school commissions, cooperatives and credit unions. This exemption means that CGA's transferring from western provinces who had practised public accountancy in their home province would still have some scope to do so in Quebec, whereas they would not if they came to Ontario or the other eastern provinces.

Legislation governing the practice of public accountancy in most provinces other than Ontario does not provide an appeal for those refused a licence. Nova Scotia does. If an applicant is refused a licence, he must be served with a written notice and can appeal the refusal to a Supreme court judge.

## 2. Provincial associations of accountants

Other provincial associations of CA's, CGA's, and RIA's automatically admit to membership residents who are members in good standing of other Canadian provincial associations of the same type.

Associations of CA's, CGA's, and RIA's in other provinces rely on national standards and guidelines in assessing and admitting foreign-trained applicants, so there is little if any variation in the treatment such applicants will meet from province to province.

Legislation governing chartered accountants in other provinces does not generally provide for appeals by those refused desired exemptions for courses or work experience or who fail examinations. British Columbia legislation does provide that transfer applicants who are refused may appeal to a Supreme Court judge who will investigate the applicant's qualifications and who can vary, confirm or reverse the CA Council's decision with respect to the application.

## XI. ACCOUNTING: COMMENTS AND RECOMMENDATIONS ON ONTARIO'S TRANSFER REGULATIONS

There is very limited national mobility for accountants practising public accountancy because different provinces have very different regulatory approaches. A transfer policy which allows more mobility for those practising public accountancy can only be achieved when the provinces agree on an internal regulatory policy.

All three professional accounting associations have a national curriculum and examinations, which allows complete mobility across Canada. They have also made strides towards an effective system of assessing the competence of foreign applicants by relying on national bodies to collect information about foreign training programmes and to develop national foreign transfer standard.

Some questions remain, however, about the appropriateness of the three associations' transfer system for foreign-trained applicants.

A.1. Demonstration of educational qualification by exam alone

C.G.A.A.O. applicants who are not given full course exemptions on the basis of their academic record should be allowed to attempt the exams given in the course, without enrolling in the course. Likewise, I.C.A.O. applicants who are not from "designated" institutions should be permitted to write exams administered in the required university courses without enrolling for additional university work.

Any applicant who failed an exam after one attempt could be required to enroll in the course before any further attempts at the examination. S.M.A.O. officials, who permit foreign transfer applicants to simply write exams for required courses without course enrollment, said that most of those who did try an exam without taking the course were not successful,<sup>82</sup> but they did not report dissatisfaction with the later performance of candidates who had passed the exams without additional course work.

This option would allow those who clearly are competent in an area to prove it without needlessly investing time and money in further academic work. If there was nervousness screening applicants, only through exams, then a higher pass standard than that set for candidates who had taken the course could be set for those attempting the exam without course enrollment.

Fairness to domestic applicants in the C.G.A. and C.A. programmes, however, demands that a foreign transfer applicant not be allowed to qualify for membership in those associations by writing exams if he would spend less total time in accounting education than that normally required of a domestic applicant. Therefore, foreign transfer applicants should only be allowed to



establish educational qualifications for membership in these associations by writing course exams without course enrollment if, prior to application, they have spent time in accounting education programmes which is at least equal in length to that which would normally be required of a domestic applicant to meet accounting education requirements. For CA candidates, this would amount to forty-five semester hours; for CGA candidates it would amount to 177 weeks.

The S.M.A.O. provides candidates attempting an exam without course enrollment with course material and texts for preparation, and this practice should be followed by other associations.

## 2. Exemptions from I.C.A.O. School of Public Accountancy

It should also be possible for a foreign transfer applicant to be exempted from all or part of the course work and/or exams of the I.C.A.O.'s School of Public Accountancy if he has taken courses and exams which are equivalent. At present, although transfer applicants from designated associations are exempt from attending the school, there is no possibility of exemption for other transfer candidates. It does not appear that all the material covered in the School's courses is devoted to subjects which are uniquely Canadian in content, so there should be a chance for applicants who have done advanced work in some subjects offered to gain exemptions. If there was some doubt as to the scope or standard of the applicant's work in an area, he would be required to pass the School's exam in a subject.

## 3. Exemption from academic requirements based on work experience

An applicant may have extensive practical experience but a poor formal academic background. More effort should be directed towards developing tools which will assess the skills of such an applicant, with a view towards



granting him or her appropriate exemptions from academic course work. This approach is presently employed by the S.M.A.O. with respect to granting exemptions from data processing courses to those with experience in this work,<sup>83</sup> and by the A.P.E.O.'s Appeal Board.<sup>84</sup>

An assessment of a candidate's work experience could involve consideration of references from employers and of samples of past work; an oral interview; completion of a series of tasks set by an examiner (e.g., preparation of a complex audit); completion of a confirmatory exam; or a combination of these methods.

#### 4. I.C.A.O. Work experience requirement

C.A. transfer candidates trained in a foreign non-designated jurisdiction are required to have three years satisfactory work experience in their own jurisdiction and to complete nine months work experience in Ontario. A requirement of additional Canadian work experience may be justified, since the classification of "designated" and non-designated jurisdictions is based on the similarity of accounting practice of that jurisdiction to Ontario, which implicitly takes into account the type of economy in which the services are offered and the type and breadth of services required.

However, it seems unnecessary to require additional Ontario as opposed to Canadian work experience. Transfer candidates from other Canadian provinces -- who do not need any Ontario work experience -- are automatically accepted by the I.C.A.O. A more stringent experience requirement should not be made of foreign transfer candidates.

It also seems unnecessary to require an absolute period of nine months work experience. The point of the additional work experience requirement is to expose foreign-trained students to aspects of accounting practice which have peculiarly Canadian content. These aspects should be identified for

the student and his principal, and it should be required that he gain a certain number of hours of exposure in these areas.

5. Administration of associations' exams

It would be helpful to give candidates past exams -- the UFE and C.G.A.A.O. and S.M.A.O. exams -- for preparation. The C.G.A.A.O.'s practice of providing unsuccessful exam candidates with a detailed critique, if requested, of their exam performance is a useful learning tool, and could well be adopted by other accounting associations.

C.A. exams should be given more than once a year to avoid unduly long delays in admission to membership of qualified applicants.

Since national examinations play such an important part in qualification for membership in all accountancy associations, some mechanism should be developed to insure review of exam questions of doubtful validity or clarity. Perhaps a petition by a certain number of exam candidates with respect to exam items could precipitate a review of these items.

6. Transfer provisions based on reciprocal agreement

The C.G.A.A.O.'s provision for acceptance of transfer applicants from affiliated organizations should not be tied to reciprocity between organizations as this factor has no relation to the competence of the individual applicant. Likewise, the Public Accountants Council's regulations with respect to authorization for occasional practice should not be based on reciprocity.

7. P.A.C. regulation of occasional practice

The P.A.C.'s regulations only allow for occasional practice without a licence by otherwise qualified non-residents on "occasional short visits"

to the province. Non-resident accountants who are members of partnerships which have an Ontario office directed by a member who is licensed in Ontario may practice in the province without a licence.

The purpose of regulations for occasional practice should be to protect clients from professionals who may not meet Ontario's standards of competence. If a non-resident accountant can demonstrate his eligibility for a licence on all counts except residency, he should be permitted to practice in Ontario on specific projects where his involvement is requested by a client. This involvement should not just be limited to "occasional short visits". Such a rule arbitrarily restricts professional mobility which may meet client needs. If, for example, a French-speaking Ontario client wishes to employ a Quebec accountant qualified to practise in Ontario except for his non-resident status, the accountant should be permitted to undertake this work.

#### 8. Hearing and appeal rights -- P.A.C. decisions

The Public Accountancy Act's provision allowing any candidate refused a licence an appeal to a Supreme Court judge should be revamped to allow review of the decision at an earlier stage by independent persons with some expertise in the area of accounting and professional regulation as is suggested in Section III.11 of this paper. A candidate whom the Council has decided to refuse should be notified of the proposed refusal (and given written reasons, if requested) before a final decision is made, and be offered the opportunity of a hearing before a subcommittee of the Council. A negative decision by the subcommittee would be reviewed by Council, which would have a copy of the applicants' written submissions. A refusal to licence by the Council would give the applicant the right to a full-scale review of the decision by a quasi-judicial, independent tribunal, which could

substitute its decision for the Council's. Further appeal to a Court would be allowed only where questions of error of law or a denial of natural justice were raised.

This right of hearing and appeal would not be of assistance to applicants who attempted to qualify for a licence under section 14(1) as members of the I.C.A.O.. The issue there is simple; either an applicant is a member or he is not. However, a right of review could be of assistance to those who claimed the right to a licence because of "special circumstances" under section 14(2), particularly given the problems raised by in-migrating public accountants from other provinces with very different regulatory policies in public accountancy.

9. Hearing and appeal rights -- I.C.A.O., C.G.A.A.O., and S.M.A.O.

Similar rights of hearing and appeal should be granted to I.C.A.O. transfer applicants who are refused membership, or who dispute the refusal of an exemption, advanced standing, or credit for foreign work experience. As was already noted, the I.C.A.O. is planning a bylaw revision which will allow such an applicant some form of appeal.

It might be useful to give C.G.A.A.O. and S.M.A.O. candidates for membership similar hearing and appeal rights. But since membership in these groups does not affect an accountant's ability to practise his profession and earn a livelihood as directly as I.C.A.O. membership (because membership in these groups is not tied to licensing), such protections are not as urgently called for.

10. Discretion to waive admission requirements

The P.A.C. is permitted to licence applicants who do not meet the usual standards in "special circumstances". The C.G.A.A.O. and S.M.A.O.'s bylaws also give their governing bodies flexibility to admit the exceptional applicant who does not comply with general admission rules. The I.C.A.O.

Council should have similar flexibility.

11. Public guidelines to course exemptions

Both the I.C.A.O. and the S.I.A.O. have guidelines available to the public as to the exemptions which will be granted foreign transfer applicants who are members of accountancy bodies with whom they have had a great deal of experience and whose programmes they are able to evaluate properly. Although the C.G.A.'s national association has apparently collected enough information about some foreign accountancy bodies to develop national guidelines with respect to exemptions granted members of those bodies, this information is not available to the public and the Association still maintains that it evaluates all transfer applications on an individual basis. If general guidelines in fact exist, they should be made public to insure consistent treatment of applicants from a particular jurisdiction.

B. Summary of Recommendations with Respect to Transfer Regulations

1. I.C.A.O. and C.G.A.A.O. foreign transfer applicants who are not given full exemptions from required academic courses should be able to meet these academic requirements by passing the exams administered in these courses without enrollment in the course if such applicants have, prior to application, spent time in accounting education programmes which is at least equal in length to that which domestic applicants must spend in meeting educational requirements.

2. It should be possible for foreign transfer applicants to the I.C.A.O. from non-designated associations to gain full or partial exemption from attendance in the School of Public Accountancy if they can demonstrate equivalent educational training.

3. All three provincial accountants' associations should



investigate the possibility of supplementing their assessments of a foreign transfer applicant's educational qualifications for the purpose of granting course exemptions with an assessment of skills demonstrated in the applicant's work experience.

4. The additional work experience requirement made by the I.C.A.O. of foreign transfer applicants from non-designated associations should allow this experience to be completed in Canada and not just Ontario. Rather than requiring nine months of any type of accounting experience, the Institute should pinpoint areas of experience in which a foreign applicant is weak, and require a certain number of hours of exposure in these areas.

5. All accounting associations should provide exam candidates with copies of past exams for preparation. The I.C.A.O. and S.M.A.O. should provide unsuccessful exam candidates with feedback as to their areas of weakness.

6. C.G.A.A.O. provisions for transfer applicants should not be tied to reciprocity between jurisdictions.

7. P.A.C. regulations for occasional practice should not be tied to reciprocity between jurisdictions, and should not be limited to practice on "occasional short visits" but allowed for a specific project requested by a client in Ontario.

8. Applicants affected by P.A.C. decisions about licensing and I.C.A.O., C.G.A.A.O. and S.M.A.O. decisions about membership, and course and work experience exemptions should be given the hearing and appeal rights outlined in section III.11 of this paper.

9. The I.C.A.O. Council should have discretion to waive admission requirements in special circumstances.

10. The C.G.A.A.O. should make public any general guidelines it employs as to course exemptions which will be granted foreign transfer applicants from particular jurisdictions.



FOOTNOTES

1. See Government of Ontario, Committee on the Healing Arts, Report, vol. 3, (Ontario: Queen's Printer, 1970), p. 51, where it says of legislation authorizing a professional self-licensing body: "It is a grant by the sovereign legislative authority, representing society, to a licensing body, owing its existence to an act of the legislature, to permit it to exercise its powers conferred for the protection of the public against incompetent or dishonest practitioners."
2. These rationales are reviewed in "Certification and Post-Secondary Education", a study for the Commission on Post-Secondary Education in Ontario, 1972.  
  
Similar rationales are advanced in the U.S. See Benjamin Schimberg et al, Occupational Licensing and Public Policy, (Princeton, N.J.: Educational Testing Service, 1972), a study prepared for the Manpower Administration, U.S. Department of Labour.
3. The Ontario Human Rights Code, R.S.O. 1970, c. 318, s. 4.
4. The Immigration Act, S.C. 1978, C-24; and SOR 78/172.
5. Judicial decisions in this area in Canada and by the Privy Council express varying opinions on the constitutionality of provincial legislation which attempts to prevent aliens from working (or leasing land or voting in provincial elections) and do not seem to be completely reconcilable. See Union Colliery v. Bryden, [1899] A.C. 580, Cunningham v. Tomey Homma, [1903] A.C. 151, Quong-Wing v. The King, [1914] 49 S.C.R. 440, and Brooks-Bidlake and Whittall v. A.G. for British Columbia, [1923] A.C. 450. The issue may be tested again if Ontario challenges the constitutionality of recent Quebec legislation restricting the right of Ontario construction workers to be employed in Quebec.
6. Morgan v. P.E.I., [1975] 55 D.L.R. (3d) 527.
7. The Immigration Act, S.C. 1978.
8. Government of Ontario, Committee on the Healing Arts, Report, op. cit., p. 44, and Government of Ontario, Royal Commission on the Inquiry into Civil Rights, Report, No. 1, vol. 3, (Ontario: Queen's Printer, 1968), p. 1162.
9. The question of consumer access to professional services is discussed by P. Slayton in "Professional Education and the Consumer Interest", in Four Aspects of Professionalism, (Ottawa: Consumer Research Council Canada, 1977).
10. See, for example, The Law Society Act, R.S.O. 1970, c. 238, ss. 33-45, and The Professional Engineers Act, R.S.O. 1970, c. 366, ss. 25 and 26. Mr. Justice McRuer, in his report on civil rights in Ontario (Report, op. cit., pp. 1177-78) also recommended that transfer applicants to the professions be given hearing and appeal rights since the decisions involved in admission or refusal were essentially judicial, in that they entailed measuring qualifications against standards.

11. This opinion was advanced by Benjamin Schimberg, op.cit., p. 371, based on conclusions drawn from empirical studies of transfer practices in occupational licensing boards in the U.S. and interviews with officials from these boards.
12. Letter to author from T. Merilees, (then Executive Director) Institute of Chartered Accountants of Ontario (ICAO), July 6, 1977.
13. Letter to author from T. Carlyon, Registrar, Institution of Engineers, Australia, May 24, 1977.
14. Interview by author with Ernest Scott, Executive Director, Society of Management Accountants of Ontario, (SMAO), June, 1977.
15. Infra., pp. 37-39.
16. Idem.
17. T. Merilees, op.cit.
18. Letter to author from J.F. Warren, Deputy Secretary-General, The Law Society, England, January 19, 1977.
19. Architectural Institute of British Columbia, Document No. 1, 1977 Registration Programme.
20. Interview with Ernest Scott, SMAO, June, 1977.
21. B. Schimberg, op.cit., pp. 313-323.
22. The Health Disciplines Act, S.O. 1974, c.47, and O.R. 577/75, s.14.
23. Ibid.
24. Ibid. and The Law Society of British Columbia "Requirements for Call and Admission on Transfer of Barristers and Solicitors from Other Provinces and Territories of Canada," 1977.
25. Government of Ontario, Committee on the Healing Arts, Report, op. cit., p. 78.
26. See Appendix A to the Research Directorate's Staff Study, "History and Organization of the Accounting Profession in Ontario," (1978), section III.5.2.
27. See for example, The Health Disciplines Act, S.O. 1974, s. 32(2) (b).
28. Unless otherwise indicated, the descriptive information in the Law section is drawn from The Law Society Act, R.S.O. 1970, c. 238, as amended and regulations and Appendix B to the Research Directorate's Staff Study, "History and Organization of the Legal Profession in Ontario," (1978), Ch. IV.
29. Information here about the approval process is drawn from a letter of K. Jarvis, November 24, 1977, and of D. Park Jamieson, April 3, 1957, as well as L.S.U.C.'s Report of the Special Committee on Law School, 1957, pp. 11-12, and Appendix B to the Research Directorate's Staff Study, op. cit., pp. 66-67.

30. See The Law Society of Upper Canada, "Report of the Special Committee on Legal Education," (1972), p. 27.
31. The Law Society of Upper Canada, Legal Education Committee, Report (1976).
32. This is indicated by comments of Prof. David Jones on his own application to L.S.U.C., contained in "Proposed Amendments to the Law Society of Upper Canada's Regulation 4", submitted by Jones to L.S.U.C.
33. Information on the Ontario exam in statutes and procedure is drawn from a memorandum prepared by L.S.U.C. for candidates and an interview with Miss M. Gardiner, L.S.U.C., October 19, 1977.
- 33a. Information on the Society's comprehensive common law exam is drawn from the interview with Miss Gardiner and the list of subjects included in the exam distributed by L.S.U.C. to candidates.
34. See The Barristers Act, 2 Geo. V, 1912, s. 3, and The Solicitors Act, 2 Geo. V, 1912, s. 6.
35. The Rules of the Law Society, 1941, amended to 1957. Some changes were made with respect to interprovincial transfers. In the 1940's the rules were amended to provide that a solicitor certified in another Canadian province could be admitted to practice if he had 3 years of active practice immediately before his application and passed an exam in Ontario statutes and procedure. An applicant certified to practice but lacking the required 3 years experience could be admitted to practice if his pre-law education was adequate, he had graduated from an approved law school, and articulated in Ontario for two years (credit for articling and practice in another province up to 18 months was given).
36. See K. Jarvis, "Transfer of Lawyers within the Commonwealth", Record of the Second Commonwealth and Empire Law Conference, 1960 (London: Sweet & Maxwell, 1962), p. 365-367. At this time rules as to the transfer of lawyers from other provinces to Ontario had also been modified to require 3 years of continuous active practice immediately preceding the application. Those who did not come within this category had to complete articling and the Bar Admission course for admission.
37. The history of the changes in transfer regulations and the reasons behind the changes is set out in K. Jarvis, "Submission to the Federation of Law Societies of Canada respecting Uniform Standards of Admission Requirements for Applicants coming from Jurisdictions outside Canada", Aug. 1974, p. 2.
38. Ibid., p. 3.
39. R.R.O. 556/1970, sections 5, 6 and 7.
40. O.R. 160/73, s. 5.
41. O.R. 220/75.

42. This is referred to in the summary of the meeting of the Joint Committee of the Federation of Law Societies and the Canadian Committee of Law Deans on "Recognition and Portability of Legal Education Qualifications". October 4, 1975, on file.
43. Letter to author from Dean D.L. Johnston, past chairman of the Canada Law Deans, November 14, 1977, on file.
44. Letter to author from Prof. J. Kavanagh, Assistant Dean, University of Ottawa, December 22, 1977, on file.
45. Letter to author from K. Jarvis, Secretary, LSUC, Nov. 24, 1977, on file.
46. Information herein on the Joint Committee's and the proposed subcommittee and its functions is drawn from two reports from meetings of the Joint Committee, June 13, 1977, and November 7, 1977, LSUC Brief to the Professional Organizations Committee, 1977 and Mr. Jarvis' letter of November 24, 1977.
47. All the information contained in the section on comparative transfer regulations and in Table A is drawn from statutes and regulations governing the professions and from letters from the professional associations to the Professional Organizations Committee.
48. Statistics are provided by Mr. D. Burnett, L.S.U.C., November, 1977.
49. Interview with Miss M. Gardiner, L.S.U.C., Oct. 19, 1977. Miss Gardiner, secretary to Mr. Jarvis, indicated that it was not Society policy to release copies of either the exam on Ontario statutes and procedure or the comprehensive common law exam since secrecy was necessary to preserve the effectiveness of the exams, and commented on the difficulties involved in developing new exams. The Bar Admission course maintains a similar policy with respect to its exams.
50. Appendix D to the Research Directorate's Staff Study, "History and Organization of the Engineering Profession in Ontario," (1978), pp. 125-129.
51. The Law Society Act, R.S.O. 1970, c. 238, s. 27.
52. Unless otherwise indicated, the descriptive information in this section is drawn from Appendix C to the Research Directorate's Staff Study, "History and Organization of the Architectural Profession in Ontario," Ch. III, and a letter from Miss J. Arnold, Registrar, OAA, to the author, June 9, 1977.
53. Unless otherwise indicated, the descriptive information in this section is drawn from Council of Ontario Universities, Report of the Study Planning Group, Study of Architecture Education, August, 1975.
54. Ibid.
55. Information herein on C.B.A.E. objectives is taken from "Schools of Architecture Recommended for Recognition, 1974", Commonwealth Association of Architects.



56. Ibid.
57. Information on comparative transfer rules is drawn from statutes and regulations governing these professional associations and from letters and bulletins from the associations, which are on file.
58. Statistics are drawn from letter to the author from Miss J. Arnold, Registrar, O.A.A., June 9, 1977.
59. Ibid.
60. The Architects Act, R.S.A. 1970, c. 22, s. 9(3)(b).
61. The Architectural Profession Act, R.S.B.C. 1970, c. 16, s. 32(c), and "Registration as an Architect in the United Kingdom", Architects Registration Council of the United Kingdom, p. 2.
62. Unless otherwise indicated, the descriptive information in this section is drawn from Appendix D to the Research Directorate's Staff Study, op. cit., Cn. III, and A.P.E.O. bulletins and reports on admission requirements and procedures.
63. See Appendix D to the Research Directorate's Staff Study, op. cit. p. 127.
64. Ibid., pp. 130-131.
65. See Canadian Accreditation Board's Policy Statement.
66. See Appendix D to the Research Directorate's Staff Study, op. cit., p. 140.
67. See A.P.E.O., Quarterly Reports on Admissions, Jan. 1, 1974 - March 31, 1976.
68. Information on comparative transfer rules is drawn from the statutes and regulations governing these professional associations and from letters and bulletins from the associations.
69. Much of the information in this section is drawn from "The engineering profession", The Economist, February 25, 1978, pp. 74-75.
70. A.P.E.O., "Revised Policy Statement regarding U.K. Applicants," 1973.
71. Interview with Mr. G. Fuller, C.G.A.A.O., June, 1978.
72. A.P.E.O. Council Minute 6726, 1976.
73. Unless otherwise indicated, the descriptive material in this section is drawn from Appendix A to the Research Directorate's Staff Study, "History & Organization of the Accounting Profession in Ontario," Ch. III and correspondence and interviews with officials of the I.C.A.O., C.G.A.A.O., and S.M.A.O., and bylaws of and bulletins issued by those associations.

74. Ibid., section III.5.
75. Ibid., section III.5.
76. Ibid., section III.3.
77. Ibid., Table III.10.
78. The New Zealand Society of (Chartered) Accountants was recently removed from the "recommended" list as the result of a review of its standards. The Society does not require work experience or completion of a comprehensive final exam for certification, and it was felt that its standards did not keep pace with current North American accounting developments. Society members now will be required to write the U.F.E., although they will be exempt from the 15 semester hours required because of the level of course requirements in New Zealand.
79. Statistics are contained in letter to the author from T. Merilees, then Executive Director, I.C.A.O., July 6, 1977, Appendix A.
80. Ibid., Appendix B.
81. Information on transfer regulations in other provinces is drawn from statutes and regulations governing the practice of public accountancy (if such exist) and the organization of accounting associations in different provinces.
82. Interview with Ernest Scott, Executive Director, S.M.A.O., June, 1977.
83. Ibid.
84. Appendix D to Research Directorate's Staff Study, op. cit., pp. 125-129.



#### APPENDIX

The following is a short precis of a critique of professional licensing exams and suggestions for improvement of such exams offered by Benjamin Schimberg in Occupational Licensing and Public Policy (Princeton, N.J., Educational Testing Service, 1972), a study prepared for Manpower Administration, U.S. Department of Labour.

#### Shortcomings of professional examinations

"Occupational Licensing and Public Policy" offers several general criticisms of most occupational licensing exams:

(a) Lack of pre-exam information to applicant. Often information given does not do more than indicate the broad categories which will be tested. More detailed information and an indication of the relative emphasis to be placed in the exam on recall of facts, understanding of principles, and the ability to apply both in problem-solving should be indicated.

(b) Poor planning. Exams often do not sample crucial skills adequately; important areas may be ignored or summarily treated, and esoteric knowledge tested. Occasionally there is too much emphasis on recall of facts, and questions requiring the candidate to apply knowledge of both facts and principles in problem-solving are not frequent enough or are not well-constructed.

(c) Over-reliance on essay questions. The authors comment that essay questions may be favoured because they seem easier to construct, but that there are serious pitfalls in extensive use of them. The questions are often ambiguous; the time needed to respond may mean that the exam as a whole will not be comprehensive; results are difficult to assess because so much pertinent data is unstandardized, and grading by different markers of the same question will vary markedly.

(d) Poorly constructed multiple choice questions. The questions are often ambiguous, and there may be more than one possibly "correct" response (or none at all) because of poor construction.

(e) Inadequate feedback to unsuccessful candidates, and lack of appeal or review with respect to questions felt to be unfair or poorly constructed. Often candidates receive only the information that they have passed or failed, with nothing to indicate what their deficiencies were.

(f) Exams not given frequently enough, often only once a year. This can entail an expensive wait for a qualified candidate who has only to prove his competence before he can begin to work in his profession.

#### Suggestions for Improvement

Occupational Licensing and Public Policy suggested specific ways in which professional licensing exam systems could be improved:

(a) Use professional expertise to develop, evaluate and administer exams. This may be too expensive an undertaking for an individual licensing body, but there are several ways of reducing the cost and sharing the benefit of expert testing assistance. If within a profession there are national standards and a national association, then nationwide tests can be developed at this level, with professional members working with testing experts to write the exam blueprints and the tests themselves and to review results. Even where there is no nation-wide uniform test possible, provincial associations can cooperate to retain testing experts and obtain information about basic testing principles at a national level. Or, provincial associations from different professions could combine to establish a province-wide consulting unit on testing which would serve different associations in test development and in administrative chores.

Some examples of assistance which testing experts could offer:

(i) Job analysis -- an analysis of the occupation resulting in identification of skills and knowledge which must be evaluated.

(ii) Development of test specifications -- a mapping out of what facts it might be important to recall, what principles it might be important to understand, and what problems a practitioner might confront in which these understandings would be applied. In other words, determining the appropriate coverage of the whole test.

(iii) Item writing -- of individual questions.

(iv) Development of instructions for administration and writing of exams, for those administering and for candidates.

(v) Development of grading standards and scoring procedures.

(vi) Post-exam item and test analysis to improve the examination for the next writing. For example, if a significant number of high-scoring applicants all miss a particular item which more average-scoring applicants generally answer correctly, that is a signal that the item may not be properly constructed.

(vii) Validity studies researching the relationship of performance of the examinations to actual job performance.

(viii) Performance of actual administrative work in preparing candidate rosters, administering exams, and scoring.

(b) Use multiple choice questions rather than essay questions wherever possible. This allows more standardization and more control over the information presented to the candidate and over the grading of the response, and therefore makes evaluation more accurate. It also allows more material to be tested in a shorter period of time.

(c) Give candidates more information before exams. Candidates should be given a detailed syllabus covering the exam material, sample exams, references to a material helpful for preparation, and information about exam procedures and format.

(d) Schedule exams fairly frequently (at least several times a year) and at several convenient locations (rather than, for example, requiring all candidates to come to Toronto).

(e) Arrange better feedback for unsuccessful candidates than a simple letter informing him of failure. A candidate should be told why he failed and in what areas he was weak.

(f) Establish a review board, with membership exclusive of all those involved in developing an examination, to adjudicate disputes between a candidate and the certifying body about items alleged to be unfair or misleading.





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